

EXHIBIT D



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Transcript of Nigel Shamash

Date: December 20, 2022

Case: Community Counseling & Mediation Services -v- Oxford Realty & Holdings
LLC

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December 20, 2022

1	1	1	3
2	2	1	A P P E A R A N C E S:
3	3	2	(All participated remotely via
4	4	3	Zoom Videoconference)
5	5	4	ON BEHALF OF THE WITNESS
6	6	5	NIGEL SHAMASH:
7	7	6	LAW OFFICES OF MARC E. BENGUALID PLLC
8	8	7	BY: ETAN C. HARRIS, ESQ.
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12	12	11	ALSO PRESENT:
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14	14	13	BRENDON SKIPPER, Videographer
15	15	14	
16	16	15	
17	17	16	
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<p>6</p> <p>1 THE VIDEOGRAPHER: Here begins</p> <p>2 media number 1 in the videotaped deposition of</p> <p>3 Nigel Shamash in the matter of Community</p> <p>4 Counseling and Mediation Services v. Oxford</p> <p>5 Realty & Holdings LLC in the United States</p> <p>6 District Court, Southern District of New York,</p> <p>7 Case No. 20-cv-03429.</p> <p>8 Today's date is December 20th,</p> <p>9 2022. The time on the video monitor is 10:45</p> <p>10 a.m. Eastern Standard Time. The remote</p> <p>11 videographer today is Brendon Skipper</p> <p>12 representing Planet Depos. All parties of this</p> <p>13 video deposition are attending remotely.</p> <p>14 Would counsel please voice</p> <p>15 identified themselves and state whom they</p> <p>16 represent.</p> <p>17 MR. HARRIS: Etan Harris of the</p> <p>18 Law Offices of Marc Bengualid for the witness</p> <p>19 Nigel Shamash.</p> <p>20 MS. TURNER: Tara Turner of</p> <p>21 BakerHostetler for the plaintiff Community</p> <p>22 Counseling and Mediation Services.</p> <p>23 MR. MARGOLIS: Barry Margolis,</p> <p>24 Abrams Garfinkel Margolis Bergson for West 27th</p> <p>25 Street Realty, Inc., Joseph Grill, Maxime</p>	<p>8</p> <p>1 capture simultaneous conversation, so only one</p> <p>2 person should be speaking at a time.</p> <p>3 If you do not understand the</p> <p>4 question, please ask me or the reporter to</p> <p>5 repeat the question or rephrase and I will be</p> <p>6 happy to do that.</p> <p>7 The court reporter will be taking</p> <p>8 down my questions and your answers, so your</p> <p>9 answers must be audible. Please say yes or no</p> <p>10 rather than nodding your head. It's very</p> <p>11 important that we keep all of your responses</p> <p>12 verbal. Do you understand?</p> <p>13 A. Yes.</p> <p>14 Q. I mentioned that I represent</p> <p>15 Community Counseling and Mediation Services. I</p> <p>16 might refer to them throughout the deposition as</p> <p>17 CCMS. Do you understand what that means?</p> <p>18 A. Yes.</p> <p>19 Q. I may also refer to the defendants</p> <p>20 in this matter, West 27th Street Realty, Inc.,</p> <p>21 Marc Paturet, Joseph Grill, Maxime Touton and</p> <p>22 F. Michael Conte. If I refer to all defendants,</p> <p>23 I will use defendants or the co-op, but I may</p> <p>24 also refer more specifically to board members of</p> <p>25 the co-op, in which case I will identify it as</p>

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<p>9</p> <p>1 the Co-op Board. Do you understand?</p> <p>2 A. Sure.</p> <p>3 Q. And you understand if I refer to</p> <p>4 Oxford, I'm referring to Oxford Realty &</p> <p>5 Holdings LLC?</p> <p>6 A. Yes.</p> <p>7 Q. Thank you.</p> <p>8 If you need a break for any reason</p> <p>9 besides the pre-scheduled break that we have at</p> <p>10 12:15, please let me know and I'll be happy to</p> <p>11 take a break. I just ask that you don't take a</p> <p>12 break while a question is pending.</p> <p>13 A. Sure.</p> <p>14 Q. Thank you.</p> <p>15 Mr. Shamash, this is sort of out</p> <p>16 of the norm of typical deposition instructions,</p> <p>17 but today we might be talking about some things</p> <p>18 related to the race or ethnicity of certain</p> <p>19 individuals. I don't mean these questions to be</p> <p>20 insensitive, but the claims in this case are for</p> <p>21 racial discrimination. So if you don't know the</p> <p>22 race or ethnicity of someone, please feel free</p> <p>23 to respond that you don't know. But I just</p> <p>24 wanted to discuss that up front as we go through</p> <p>25 the questions. Do you understand?</p>	<p>11</p> <p>1 Q. Mr. Shamash, are you represented</p> <p>2 by counsel today?</p> <p>3 A. Yes.</p> <p>4 Q. And just for the record, could</p> <p>5 your counsel please identify himself again.</p> <p>6 MR. HARRIS: Etan Harris, Law</p> <p>7 Office of Marc Bengualid for Nigel Shamash.</p> <p>8 MS. TURNER: Thank you.</p> <p>9 I believe John introduced himself</p> <p>10 earlier. He is with Planet Depos and he will be</p> <p>11 controlling any of the digital documents.</p> <p>12 John, could you please pull up</p> <p>13 document 1.</p> <p>14 THE TECHNICIAN: Stand by,</p> <p>15 counsel. One moment.</p> <p>16 (Exhibit P marked for</p> <p>17 identification.)</p> <p>18 THE TECHNICIAN: Document 1 is on</p> <p>19 screen. It is marked as Exhibit P.</p> <p>20 MR. MARGOLIS: Tara, what's the</p> <p>21 plan for you providing us with these exhibits?</p> <p>22 MS. TURNER: Sure. I will</p> <p>23 share the -- there is a link where as we mark</p> <p>24 these exhibits you will be able to download them</p> <p>25 immediately, and then I can also send you copies</p>
<p>10</p> <p>1 A. Yes.</p> <p>2 Q. Thank you. And you also</p> <p>3 understand that you are now under oath?</p> <p>4 A. Yes.</p> <p>5 Q. And you understand that the</p> <p>6 testimony you're about to give has the same</p> <p>7 force and effect as if you were testifying in a</p> <p>8 courtroom?</p> <p>9 A. Yes.</p> <p>10 Q. And are you suffering from any</p> <p>11 medical conditions, medical or physical -- I'm</p> <p>12 sorry, medical conditions, mental or physical,</p> <p>13 that would prevent you from testifying fully and</p> <p>14 truthfully today?</p> <p>15 A. No.</p> <p>16 Q. And are you taking any medications</p> <p>17 or substances that would prevent you from</p> <p>18 testifying fully and truthfully today, or would</p> <p>19 otherwise affect your recollection?</p> <p>20 A. No.</p> <p>21 Q. Thank you.</p> <p>22 Is there anything else I should be</p> <p>23 aware of that would prevent you from testifying</p> <p>24 fully and truthfully today?</p> <p>25 A. No.</p>	<p>12</p> <p>1 once the deposition is complete.</p> <p>2 MR. CASE: Tara, for the sake of</p> <p>3 clarity, where do we find that link?</p> <p>4 MS. TURNER: It should have been</p> <p>5 in the deposition invite, but I will resend</p> <p>6 right now. We just want to go off the record</p> <p>7 for two minutes and I can send.</p> <p>8 MR. CASE: Okay.</p> <p>9 THE VIDEOGRAPHER: We're going off</p> <p>10 the record. The time is 10:52.</p> <p>11 (Discussion off the record.)</p> <p>12 THE VIDEOGRAPHER: We're back on</p> <p>13 the record. The time is 10:54.</p> <p>14 BY MS. TURNER:</p> <p>15 Q. Mr. Shamash, John has pulled up</p> <p>16 document 1, which we have marked as Exhibit P.</p> <p>17 Do you recognize this document?</p> <p>18 A. Yes.</p> <p>19 Q. What is it?</p> <p>20 A. A subpoena.</p> <p>21 Q. Is this the subpoena you received</p> <p>22 in connection with this case?</p> <p>23 A. It's a subpoena. I don't have</p> <p>24 this in mind specifically, but it has my name on</p> <p>25 it so I have to imagine so.</p>

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<p>13</p> <p>1 Q. And you see at the top of the</p> <p>2 subpoena it says CCMS doing business as</p> <p>3 Community Counseling and Mediation Services --</p> <p>4 A. Yes.</p> <p>5 Q. -- v. West 27th Street Realty,</p> <p>6 Inc.?</p> <p>7 A. Um-hum.</p> <p>8 Q. So you understand this is a</p> <p>9 subpoena in connection with this action?</p> <p>10 A. Yes.</p> <p>11 Q. Thank you.</p> <p>12 And you understand that the</p> <p>13 parties and your counsel have agreed to conduct</p> <p>14 this deposition by remote means?</p> <p>15 A. Um-hum.</p> <p>16 Q. And you understand that the</p> <p>17 deposition will be videorecorded, and you</p> <p>18 consent to that?</p> <p>19 A. Um-hum, yup.</p> <p>20 Q. Thank you. If you could just say</p> <p>21 yes or no so that it's clear for the court</p> <p>22 reporter.</p> <p>23 A. Yes.</p> <p>24 Q. Thank you.</p> <p>25 MS. TURNER: John, you can take</p>	<p>15</p> <p>1 prepare?</p> <p>2 A. Not really. I had a conversation</p> <p>3 with my attorney.</p> <p>4 Q. Okay. I'm not going to ask you</p> <p>5 about the substance of that conversation.</p> <p>6 Did you meet with your attorney to</p> <p>7 prepare for the deposition?</p> <p>8 A. I had a conversation with him.</p> <p>9 Q. How long was that conversation?</p> <p>10 MR. HARRIS: Counsel, this is not</p> <p>11 relevant, the duration of the conversation with</p> <p>12 the attorney. I don't think that's an</p> <p>13 appropriate question. You're kind of jumping</p> <p>14 into attorney-client privilege, don't you think,</p> <p>15 Tara?</p> <p>16 MS. TURNER: I think it's a pretty</p> <p>17 standard question to ask how long someone met</p> <p>18 with their attorney to prepare for a deposition.</p> <p>19 Q. Did you have a half-hour</p> <p>20 conversation, did you have an eight-hour</p> <p>21 conversation?</p> <p>22 MR. HARRIS: Objection. I'm not</p> <p>23 going to let him answer that. I think it's</p> <p>24 inappropriate.</p> <p>25 Q. When did you meet with your</p>
<p>14</p> <p>1 down document 1.</p> <p>2 Q. Mr. Shamash, what's your</p> <p>3 understanding of the nature of this lawsuit?</p> <p>4 A. There was a board meeting</p> <p>5 where these people got refused.</p> <p>6 (Reporter clarification.)</p> <p>7 A. -- where CCMS was refused.</p> <p>8 Q. And do you understand that my</p> <p>9 client sued the defendants, as well as you and</p> <p>10 Oxford, for racial discrimination?</p> <p>11 A. I do, yes.</p> <p>12 Q. And you and Oxford were previously</p> <p>13 defendants in the action but you've now been</p> <p>14 dismissed?</p> <p>15 A. Yes.</p> <p>16 Q. Correct? Thank you.</p> <p>17 Mr. Shamash, what did you do, if</p> <p>18 anything, to prepare for this deposition?</p> <p>19 A. Can you repeat the question.</p> <p>20 Prepare?</p> <p>21 Q. Prepare.</p> <p>22 A. I sent over documents that were</p> <p>23 requested of me. And I listened to the phone</p> <p>24 call recording.</p> <p>25 Q. Did you speak with anyone to</p>	<p>16</p> <p>1 attorney to prepare for the deposition,</p> <p>2 Mr. Shamash? Or when did you have a</p> <p>3 conversation with your attorney to prepare for</p> <p>4 the deposition?</p> <p>5 THE WITNESS: I have to answer</p> <p>6 that?</p> <p>7 MR. HARRIS: It's privileged.</p> <p>8 THE WITNESS: Okay.</p> <p>9 A. We met last week, sometime last</p> <p>10 week.</p> <p>11 Q. Was there a day of week that you</p> <p>12 met?</p> <p>13 A. Sometime last week.</p> <p>14 Q. Are you refusing to answer what</p> <p>15 day you met with your attorney?</p> <p>16 A. No, I just don't remember. It was</p> <p>17 sometime last week. This got delayed from</p> <p>18 Friday, so it was sometime last week between</p> <p>19 Tuesday and Thursday, but I can't remember</p> <p>20 exactly which day it was.</p> <p>21 Q. Okay, thank you.</p> <p>22 And I'm sorry, did you meet with</p> <p>23 your attorney or just spoke with your attorney,</p> <p>24 just so the record is clear?</p> <p>25 A. We had a conversation.</p>

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<p>17</p> <p>1 Q. You had a conversation on the 2 phone?</p> <p>3 MR. HARRIS: Objection. This is 4 attorney-client privilege. You can't go into 5 details when he spoke to his attorney. I'm not 6 letting him answer this question. Move on.</p> <p>7 Q. Was anyone else on the call with 8 you besides you and your attorney?</p> <p>9 A. No.</p> <p>10 Q. Thank you.</p> <p>11 Other than your attorney, did you 12 meet or speak with anyone else in preparation 13 for this deposition?</p> <p>14 A. No.</p> <p>15 Q. You didn't speak to a spouse, a 16 partner, a family member?</p> <p>17 A. I had a very tertiary conversation 18 with Mr. Saul Tawil about this.</p> <p>19 Q. And who is Mr. Tawil?</p> <p>20 A. Mr. Tawil is one of the partners 21 of a company which owns Oxford.</p> <p>22 Q. And what was the substance of your 23 conversation?</p> <p>24 A. To tell him that we're being 25 deposed.</p>	<p>19</p> <p>1 Q. Mr. Shamash, you understand your 2 attorney produced roughly 70 documents in 3 response to this subpoena?</p> <p>4 A. Um-hum, yes.</p> <p>5 Q. Mr. Shamash, do you have any 6 materials in front of you right now?</p> <p>7 A. No, ma'am.</p> <p>8 Q. And is there anyone else in the 9 room with you besides your attorney?</p> <p>10 A. No.</p> <p>11 Q. Thank you.</p> <p>12 Mr. Shamash, have you met or 13 spoken with counsel for the defendants before, 14 Mr. Margolis and Mr. Case who are on the line?</p> <p>15 A. I don't believe so. I don't know 16 if we've ever spoken. Mr. Margolis, have we 17 ever spoken? I don't know if I've ever spoken 18 to Mr. Margolis before. I've never spoken to 19 Mr. Case before.</p> <p>20 MR. MARGOLIS: Just for the 21 record, Tara, I've never spoken to Mr. Shamash.</p> <p>22 MS. TURNER: Thank you.</p> <p>23 Q. And you've never met Mr. Case or 24 Mr. Margolis?</p> <p>25 A. No.</p>
<p>18</p> <p>1 Q. And how do you know Mr. Tawil?</p> <p>2 A. He is a shareholder of the company 3 which owns a share of Oxford.</p> <p>4 Q. Do you have a personal 5 relationship with him?</p> <p>6 A. Not particularly personally, no.</p> <p>7 Q. Are you related to him?</p> <p>8 A. Through marriage.</p> <p>9 Q. How are you related to him through 10 marriage?</p> <p>11 A. His brother is married to my 12 sister.</p> <p>13 Q. Thank you.</p> <p>14 Did you review any materials in 15 preparation for this deposition?</p> <p>16 A. No. With the exception of the 17 phone call.</p> <p>18 Q. And you produced documents in 19 response to the subpoena for this deposition, 20 correct?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Do you have any other materials 23 produced in response to the subpoena?</p> <p>24 A. The only thing I have is the phone 25 call.</p>	<p>20</p> <p>1 Q. Thank you.</p> <p>2 Mr. Shamash, have you spoken with 3 any of the individual defendants in this action? 4 And I can repeat the names if you need me to.</p> <p>5 A. Please do.</p> <p>6 Q. Please do?</p> <p>7 A. Yes.</p> <p>8 Q. Sorry, you cut out a little bit. 9 Have you ever spoken with Mr. F. 10 Michael Conte?</p> <p>11 A. After, or when? Before?</p> <p>12 Q. Ever.</p> <p>13 A. Ever, yeah.</p> <p>14 Q. And have you ever spoken to him 15 concerning this action or the events that led to 16 this action?</p> <p>17 A. No.</p> <p>18 Q. You've never spoken with him?</p> <p>19 A. Correct.</p> <p>20 Q. Have you ever spoken with --</p> <p>21 MR. HARRIS: Object to the form on 22 the last question.</p> <p>23 Q. Have you ever spoken with 24 Mr. Joseph Grill about this action or the events 25 that led to this action?</p>

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<p>21</p> <p>1 A. No.</p> <p>2 Q. Have you ever spoken with Mr., I</p> <p>3 believe it's Paturet regarding this action or</p> <p>4 the events that led to this action?</p> <p>5 A. No.</p> <p>6 MR. HARRIS: Objection to form.</p> <p>7 Q. Have you ever spoken with</p> <p>8 Mr. Touton regarding this action or the events</p> <p>9 that led to this action?</p> <p>10 MR. HARRIS: Objection to form.</p> <p>11 You can answer.</p> <p>12 A. No.</p> <p>13 MR. CASE: Can we specify the</p> <p>14 first name of Mr. Touton?</p> <p>15 MS. TURNER: Sure. It's -- and</p> <p>16 I'm sorry if I'm mispronouncing -- it's</p> <p>17 Mr. Maxime Touton.</p> <p>18 MR. MARGOLIS: M-a-x-i-m-e.</p> <p>19 MS. TURNER: Thank you.</p> <p>20 Q. Mr. Shamash, have you ever spoken</p> <p>21 with a Mr. Eric Doctormann in connection with</p> <p>22 this action or the events that led to this</p> <p>23 action?</p> <p>24 A. No.</p> <p>25 MR. HARRIS: Objection to form.</p>	<p>23</p> <p>1 Q. Have you ever spoken with --</p> <p>2 A. If I have, it hasn't been for more</p> <p>3 than a minute.</p> <p>4 Q. Have you ever spoken with</p> <p>5 Mr. Maxime Touton?</p> <p>6 A. I don't believe so.</p> <p>7 Q. Have you ever spoken with Mr. F.</p> <p>8 Michael Conte?</p> <p>9 A. Yes.</p> <p>10 Q. And then, have you ever spoken</p> <p>11 with Mr. Marc Paturet?</p> <p>12 A. I don't believe so. If I have,</p> <p>13 not more than a couple of minutes.</p> <p>14 Q. Mr. Shamash, have you spoken with</p> <p>15 Peter Lehr or anyone from Kaled Management</p> <p>16 concerning this action or the events that led to</p> <p>17 this action?</p> <p>18 MR. HARRIS: Object to the form.</p> <p>19 You can answer.</p> <p>20 A. No.</p> <p>21 Q. Have you ever spoken with Peter</p> <p>22 Lehr since Oxford took over the eighth floor?</p> <p>23 A. If I did, not for more than a</p> <p>24 couple of minutes.</p> <p>25 Q. Mr. Shamash, have you ever been</p>
<p>22</p> <p>1 Q. But you have spoken with all of</p> <p>2 those individuals before?</p> <p>3 MR. MARGOLIS: Objection.</p> <p>4 Generally, from the beginning of time? Tara,</p> <p>5 you've got to narrow the question.</p> <p>6 Q. You have spoken with those</p> <p>7 individuals since Oxford took over the property</p> <p>8 at 129 West 27th Street at the eighth floor?</p> <p>9 MR. CASE: Object to the form.</p> <p>10 A. Some of them.</p> <p>11 MR. MARGOLIS: What was the</p> <p>12 answer, Nancy?</p> <p>13 THE WITNESS: Some of them.</p> <p>14 (Reporter clarification.)</p> <p>15 Q. Of those individuals, which ones</p> <p>16 have you spoken with?</p> <p>17 A. You want them one by one?</p> <p>18 Q. Sure.</p> <p>19 A. Um-hum.</p> <p>20 Q. Have you ever spoken with</p> <p>21 Mr. Joseph Grill or Joey Grill?</p> <p>22 A. Yes.</p> <p>23 Q. Have you ever spoken with Mr. Eric</p> <p>24 Doctormann?</p> <p>25 A. I don't believe so.</p>	<p>24</p> <p>1 deposited before?</p> <p>2 A. Yes.</p> <p>3 Q. If so, in what action?</p> <p>4 A. There was a real estate action 25</p> <p>5 years ago. It went for -- or so. Maybe 20</p> <p>6 years ago. And it went for -- I don't remember</p> <p>7 it being very long.</p> <p>8 Q. Do you remember what court that</p> <p>9 action was in?</p> <p>10 A. It wasn't a court.</p> <p>11 Q. Was it -- I'm sorry. Do you know</p> <p>12 what court the action was situated in?</p> <p>13 A. No.</p> <p>14 Q. What were the circumstances of the</p> <p>15 dispute?</p> <p>16 A. Two tenants -- a tenant had an</p> <p>17 option to buy a building with a lease, or so</p> <p>18 they thought, a lease with an option, and they</p> <p>19 asked me at the -- as someone who knew both</p> <p>20 parties, but wasn't part of the parties, if I</p> <p>21 knew anything to do with the lease with the</p> <p>22 option to buy, and I didn't.</p> <p>23 Q. And what subjects generally did</p> <p>24 you testify about?</p> <p>25 A. It's been a long time; I can't</p>

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<p>25</p> <p>1 remember.</p> <p>2 Q. And have you ever given testimony</p> <p>3 in court?</p> <p>4 A. No. Ah -- no.</p> <p>5 Q. Have you ever given testimony in</p> <p>6 an arbitration or mediation?</p> <p>7 A. I did have an arbitration in</p> <p>8 landlord/tenant court with a squatter a few</p> <p>9 years ago.</p> <p>10 Q. How many is a few years ago?</p> <p>11 A. Three or four.</p> <p>12 Q. Do you remember what action that</p> <p>13 was?</p> <p>14 A. Not well.</p> <p>15 Q. And can you just describe the</p> <p>16 circumstances of that dispute?</p> <p>17 A. Tenant moved in -- someone moved</p> <p>18 into a space, which we didn't know about, and</p> <p>19 they went out in court where they said it was an</p> <p>20 office space and that was the end of the</p> <p>21 conversation. It ended.</p> <p>22 Q. And what subjects did you testify</p> <p>23 about in the arbitration?</p> <p>24 A. It was literally three seconds</p> <p>25 where the court basically got the gist of the</p>	<p>27</p> <p>1 Q. And what degree were you speaking?</p> <p>2 A. Business related.</p> <p>3 Q. Why did you drop out?</p> <p>4 A. Because I was too busy in my</p> <p>5 personal business.</p> <p>6 Q. What's your current occupation?</p> <p>7 A. I'm a real estate developer.</p> <p>8 Q. And where do you work?</p> <p>9 A. I have an office in Chelsea.</p> <p>10 Q. What company do you work for?</p> <p>11 A. I work for myself.</p> <p>12 Q. And how long have you worked for</p> <p>13 yourself?</p> <p>14 A. Since I dropped out of college.</p> <p>15 Q. Just working backwards to when you</p> <p>16 dropped out, could you just generally describe</p> <p>17 your work history?</p> <p>18 A. Sure. I initially was in</p> <p>19 commercial real estate, initially as a broker</p> <p>20 for small spaces. Over the years it's morphed,</p> <p>21 but it's very much a development and asset</p> <p>22 management business at this point.</p> <p>23 Q. Thank you.</p> <p>24 A. Consultancy, too.</p> <p>25 (Reporter clarification.)</p>
<p>26</p> <p>1 whole thing. But there was an arbitrator, so I</p> <p>2 guess that counts as arbitration.</p> <p>3 Q. And what property was this dispute</p> <p>4 about?</p> <p>5 A. Building on 29th Street.</p> <p>6 Q. The same building at issue?</p> <p>7 A. Building from 27th Street.</p> <p>8 Q. Okay, thank you. I'm actually</p> <p>9 diagnosed dyslexic, so if I get some numbers</p> <p>10 wrong today, forgive me.</p> <p>11 Now I'm just going to ask you a</p> <p>12 little bit -- a few personal questions,</p> <p>13 Mr. Shamash. Can you just please describe your</p> <p>14 race and ethnicity for the record.</p> <p>15 A. I'm Jewish. My parents are Middle</p> <p>16 Eastern. They're both from Baghdad.</p> <p>17 Q. Thank you. Can you please</p> <p>18 describe your educational history.</p> <p>19 A. Some college.</p> <p>20 Q. What does some college mean?</p> <p>21 A. I went to college from the age of</p> <p>22 17 until 20-ish. I believe I dropped out after</p> <p>23 three years of college.</p> <p>24 Q. What college was that?</p> <p>25 A. Florida College.</p>	<p>28</p> <p>1 THE WITNESS: Consultancy too.</p> <p>2 MR. MARGOLIS: Insolvency too?</p> <p>3 THE WITNESS: Consultancy.</p> <p>4 MR. MARGOLIS: Insolvency.</p> <p>5 MR. HARRIS: No, consultancy.</p> <p>6 MR. MARGOLIS: Oh, consultancy,</p> <p>7 I'm sorry. Mr. Shamash, you have your hand over</p> <p>8 your mouth. It's difficult to read your lips.</p> <p>9 Q. Mr. Shamash, just for my benefit,</p> <p>10 could you please describe the differences</p> <p>11 between being a broker and a commercial real</p> <p>12 estate developer?</p> <p>13 A. Sure. A developer buys real</p> <p>14 estate, takes a loan, builds things and hopes he</p> <p>15 leases or sells things. A real estate broker</p> <p>16 works on behalf of the real estate owners or on</p> <p>17 behalf of the tenants and tries to get them</p> <p>18 inside of buildings, be it commercial or</p> <p>19 residential.</p> <p>20 Q. Thank you. And do you still</p> <p>21 broker any spaces for clients?</p> <p>22 A. I still carry a broker's license,</p> <p>23 although it's -- I very much -- it's very much</p> <p>24 something that I do on the side at this point.</p> <p>25 Q. How many commercial properties</p>

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<p>29</p> <p>1 would you say you've been involved in as a 2 broker, over your career? 3 A. Tens, if not hundreds. 4 Q. And how many residential 5 properties have you been involved in as a broker 6 over your career? 7 A. Not many. 8 Q. Of those commercial properties 9 where you were a broker, how many of those were 10 co-ops? 11 A. There are approximately, 12 approximately ten or so commercial co-ops in the 13 area of Chelsea in the Garment District. Over 14 the past 20 years I've had an interaction one 15 way or another with, I'd say, 60 percent of 16 them. 17 Q. So of the total number of 18 properties, commercial properties that you've 19 been involved in as a broker, how many would you 20 say, if you can give a percentage, involved 21 dealing with a co-op? 22 A. Involved dealing with a co-op? 23 When I said I've interacted, it's very rarely a 24 case of me dealing with a co-op. As a broker 25 you've got a customer and you deal with a </p>	<p>31</p> <p>1 question. Can you repeat it again. 2 MS. TURNER: Nancy, could you 3 repeat the question. 4 (Last question read.) 5 A. Does that include me getting a 6 phone call for a space, to look at a space, and 7 me showing ten office spaces and one of them 8 happens to be a co-op? Does that count? 9 Q. Yes. 10 A. So the question is how many times 11 have I been inside of a co-op with a tenant. 12 Q. I didn't ask where you physically 13 were located. 14 A. Every time it would have been 15 physically. Meaning, you want to know how many 16 times I've interacted with a co-op. Most of the 17 time we'll get in a cost light (phonetic) when 18 we were running a brokerage. A tenant would 19 call us looking for space. We would go on a 20 multiple listing search. We would find 21 listings. If one of them happens to be listed 22 inside of a co-op, it really doesn't make a 23 difference to the action of me showing space. 24 So you call the landlord representative, be it a 25 co-op or an owner or whatever; you say is the </p>
<p>30</p> <p>1 manager. 2 So, in that case, very few. In 3 the case of how many of my commercial deals have 4 involved me dealing with a co-op, a highly 5 fractional number. 6 Q. Could you give an estimate? 7 A. Between .25 percent and .5 percent 8 would be my guess. 9 Q. Understood. 10 And to circle back to what you 11 said earlier about 60 percent -- strike that. 12 How many commercial properties 13 have you been involved as a broker -- 14 A. Representing the tenant or 15 representing the landlord? 16 Q. Either. 17 A. How many properties -- so, can I 18 clarify the question? 19 Q. Sorry, I didn't actually get a 20 chance to finish the question. 21 A. Sorry. 22 Q. How many commercial properties 23 have you been involved in as a broker for a 24 landlord or a tenant that involved a co-op? 25 A. My apologies, it's a long </p>	<p>32</p> <p>1 space available still. They could say yes; you 2 then show the space. That's it. If they like 3 it, they make an offer. 4 How many times have I done that 5 and it being a commercial co-op, it's happened a 6 lot. I don't have a number for it. Easily more 7 than ten times. At one point I was a very busy 8 broker, so it would be more than ten times. 9 Less than a hundred, I'm sure. Somewhere in 10 that range. 11 Q. Thank you for that explanation. 12 I'm going to shift gears to some 13 questions about Oxford. Mr. Shamash, what's 14 your connection to Oxford? 15 A. I own a minority share in a 16 company which owns a share of Oxford. 17 Q. And what's the company that you 18 own a minority share of? 19 A. I don't know it's exact name but 20 it has "Oxford" in its name. 21 Q. And do you know when Oxford was 22 formed? 23 A. If memory serves me correctly, 24 within a couple of years of 2005. So in between 25 2003 and 2007. </p>

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<p>33</p> <p>1 Q. Thank you. And when did you 2 become involved with Oxford? 3 A. Gradually as I got older and my 4 father did as well, and Saul did as well. 5 Q. And how is your father connected 6 to Oxford? 7 A. He was the initial person who 8 identified the property and he has been pretty 9 much a silent partner for most of the time. 10 Q. Understood. So who manages 11 Oxford? 12 A. Saul Tawil along with me. 13 Q. Now, I want to just sort of define 14 this term to shorten it, but when I'm referring 15 to the premises, I'm referring to -- sorry, I 16 have to find the address now because of my 17 dyslexia. 18 If I'm referring to the premises, 19 I'm referring to 129 West 27th Street, 20 specifically the eighth floor in New York, New 21 York, 10001. Do you understand what that means? 22 A. Yes. 23 Q. Thank you. Besides the premises, 24 does Oxford rent or own any other commercial 25 properties?</p>	<p>35</p> <p>1 A. Good question. 2 A running tally of approximately 3 six or seven. 4 Q. How many residential properties do 5 you own? 6 A. Single-family residential 7 properties? 8 Q. Any type of residential property. 9 A. Three, four. 10 Q. And do you own any properties, 11 commercial or residential, that Mr. Tawil owns? 12 A. He owns this with us. He's 13 affiliated with other buildings. I don't know 14 the addresses of them. 15 Q. How many of the commercial 16 properties that you own have co-ops? 17 A. Three. 18 Q. Where are Oxford's offices 19 located? 20 A. I don't know where they're 21 currently operated -- located. I have no idea. 22 Q. Where do you work out of? 23 A. I work out of 27 West 28th -- 24 sorry, 28 West 27th -- that's my dyslexia. 28 25 West 27th Street, one block away.</p>
<p>34</p> <p>1 A. Yes. 2 Q. Where? 3 A. Seventh floor. 4 Q. And besides the seventh floor of 5 that address, does Oxford rent or own any other 6 properties? 7 A. No. 8 Q. Do you or Mr. Tawil rent or own 9 other commercial properties? 10 MR. HARRIS: Objection to form. 11 Mr. Who? 12 MS. TURNER: I'm sorry if I'm 13 mispronouncing it. Tawil. 14 A. Yes. 15 Q. And where are those properties 16 located? 17 A. I don't know exactly what Saul 18 owns, but I can speak for myself. 19 Q. Sure. We'll start with you. 20 A. I own real estate throughout 21 Manhattan, central Jersey. I have my houses in 22 New York and central Jersey and upstate New 23 York. 24 Q. How many commercial properties do 25 you own?</p>	<p>36</p> <p>1 Q. Thank you. 2 Since its formation, has Oxford 3 been involved in any lawsuits? 4 A. No. Apart from this. 5 MS. TURNER: John, if you could 6 please pull up document 2. 7 A. Can I just correct that. Not that 8 I know of, not that I recall. 9 THE TECHNICIAN: Stand by, 10 counsel. 11 (Exhibit Q marked for 12 identification.) 13 THE TECHNICIAN: Document 2 is on 14 screen marked as Exhibit Q. 15 Q. Mr. Shamash, I'm going to give you 16 a second to review this. 17 A. Sure. 18 (Witness reviewing document.) 19 Q. Do you recognize this document? 20 A. I do indeed. 21 Q. What is it? 22 A. This is a previous tenant, and 23 that's what my questions involved before; I 24 didn't know whether there was a lawsuit filed or 25 not. This is a previous tenant of the space.</p>

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<p>37</p> <p>1 Q. So this is a summons and complaint</p> <p>2 in connection with a lawsuit Oxford Realty &</p> <p>3 Holdings, LLC v. Two Franks Holdings LLC; is</p> <p>4 that correct?</p> <p>5 A. That's right.</p> <p>6 Q. What was the nature of that</p> <p>7 lawsuit?</p> <p>8 A. They were a tenant and they wanted</p> <p>9 to leave the space early.</p> <p>10 Q. And when you say "they," are you</p> <p>11 referring to Two Franks Holdings LLC?</p> <p>12 A. Yes.</p> <p>13 Q. And where were they a tenant?</p> <p>14 A. They were a tenant on one of the</p> <p>15 floors. I don't know which one.</p> <p>16 MS. TURNER: John, could you</p> <p>17 please -- I'm not sure if we are able to scroll</p> <p>18 down the document. Maybe just scroll to the</p> <p>19 next page.</p> <p>20 THE TECHNICIAN: Is there a</p> <p>21 particular section you're looking for, Ms.</p> <p>22 Turner?</p> <p>23 MS. TURNER: Sorry, it's very</p> <p>24 small on my screen. It's making it very hard</p> <p>25 for me to see.</p>	<p>39</p> <p>1 aforementioned premises, with a portion of said</p> <p>2 shares allocated to Unit 8 at the building known</p> <p>3 as 129 West 27th Street."</p> <p>4 Q. Does this refresh your</p> <p>5 recollection that this lawsuit involved the same</p> <p>6 premises that's at issue here?</p> <p>7 A. It says Unit 8; I imagine that's</p> <p>8 the eighth floor.</p> <p>9 Q. Thank you.</p> <p>10 Why did Two Franks want to get out</p> <p>11 of their lease?</p> <p>12 A. I actually have very little memory</p> <p>13 of this, but it's a very common thing that a</p> <p>14 tenant wants to get out of the space, is going</p> <p>15 to make an argument economically to get out</p> <p>16 because the lease is for, typically, five or ten</p> <p>17 years. So, they would make a claim saying that</p> <p>18 they're having economic hardship or something</p> <p>19 like that, and they try to get out of the lease.</p> <p>20 Q. Do you recall how long Two Franks'</p> <p>21 lease was for the premises?</p> <p>22 A. I don't. We typically sign leases</p> <p>23 between three and ten years.</p> <p>24 MS. TURNER: John, if you could go</p> <p>25 to the third page.</p>
<p>38</p> <p>1 MR. HARRIS: Thank you. Can you</p> <p>2 scroll through the whole document so I can</p> <p>3 review it? Thank you.</p> <p>4 MR. MARGOLIS: John, are you able</p> <p>5 to elongate that vertically?</p> <p>6 THE TECHNICIAN: Say again, sir.</p> <p>7 MR. MARGOLIS: Like are you able</p> <p>8 to make the frame longer, top to bottom? No,</p> <p>9 not scrolling. Just like, are you able to like</p> <p>10 increase the border to stretch it higher so that</p> <p>11 it's bigger?</p> <p>12 THE TECHNICIAN: I don't believe</p> <p>13 so, sir. The only thing I can do is zoom out to</p> <p>14 show more of it, but obviously that will make</p> <p>15 the text smaller.</p> <p>16 MR. MARGOLIS: Okay.</p> <p>17 MS. TURNER: John, could you go to</p> <p>18 page 2, and pull up number 4 of the document.</p> <p>19 BY MS. TURNER:</p> <p>20 Q. Mr. Shamash, could you please read</p> <p>21 number 4 of the document.</p> <p>22 A. "That at all relevant times,</p> <p>23 plaintiff was and still is a cooperative</p> <p>24 tenant-lessee, and a shareholder of West 27th</p> <p>25 Street Realty, Inc., the owner of the</p>	<p>40</p> <p>1 Q. Mr. Shamash, if you could just</p> <p>2 read -- and you can read it to yourself --</p> <p>3 number 5 of the document.</p> <p>4 A. Can I read it out loud?</p> <p>5 Q. Sure.</p> <p>6 A. (As read): "On or about November</p> <p>7 23, 2016, defendant, as subtenant, entered into</p> <p>8 a sublease with the plaintiff, as a cooperative-</p> <p>9 tenant, for five years commencing in December</p> <p>10 1st, 2016 and ending in 2021, beginning at a</p> <p>11 basic annual rent of \$285,000 with an annual</p> <p>12 increase of three percent for each year of that</p> <p>13 sublease thereafter."</p> <p>14 Q. Thank you.</p> <p>15 Does this refresh your</p> <p>16 recollection that the sublease with Two Franks</p> <p>17 began December 1st, 2016 and was set to end</p> <p>18 November 30th, 2021?</p> <p>19 A. It says that on the document. I</p> <p>20 don't have a recollection of it specifically,</p> <p>21 but it says that on the document. I'll take it</p> <p>22 as being correct.</p> <p>23 Q. And why did Two Franks vacate the</p> <p>24 premises early before their lease was up?</p> <p>25 MR. HARRIS: Objection, asked and</p>

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<p>41</p> <p>1 answered. You can answer it.</p> <p>2 A. I'll answer it. If I remember</p> <p>3 right, they didn't have the money.</p> <p>4 Q. Do you know what kind of business</p> <p>5 Two Franks was?</p> <p>6 A. Media company.</p> <p>7 Q. What kind of media?</p> <p>8 A. That I don't know. Media.</p> <p>9 Q. Thank you.</p> <p>10 What happened to this -- what</p> <p>11 happened in this lawsuit?</p> <p>12 MR. HARRIS: Objection to form.</p> <p>13 What do you mean what happened?</p> <p>14 Q. What was the outcome of this</p> <p>15 lawsuit?</p> <p>16 A. They left the space.</p> <p>17 Q. So this action is still pending?</p> <p>18 A. Is it? I don't know. I don't</p> <p>19 think so.</p> <p>20 MS. TURNER: John, if you could go</p> <p>21 down to page, the bottom of this page and the</p> <p>22 top of page 4.</p> <p>23 Q. Mr. Shamash, could you just read</p> <p>24 number 11, please.</p> <p>25 A. (As read): "Pursuant to the</p>	<p>43</p> <p>1 A. The space, the building is a</p> <p>2 75-foot by 100 12-story commercial building, and</p> <p>3 the space is one floor of that --</p> <p>4 (Reporter clarification.)</p> <p>5 A. One floor of that, or two floors,</p> <p>6 depending on what we're talking about. As far</p> <p>7 as I know we're talking about the eighth floor,</p> <p>8 so one floor of that.</p> <p>9 Q. Yes, I defined premises as just</p> <p>10 the eighth floor. If I ask about another floor,</p> <p>11 I'll make sure to clarify.</p> <p>12 How many square feet was the</p> <p>13 eighth floor?</p> <p>14 A. Rentable square footage is</p> <p>15 somewhere in the range of 8500 square feet.</p> <p>16 That's how commercial real estate is measured on</p> <p>17 a brokerage basis. Usable space is</p> <p>18 approximately 5500 square feet.</p> <p>19 Q. What's the difference between</p> <p>20 rentable and usable space?</p> <p>21 A. It's something called the loss</p> <p>22 factor, and it's a way in which real estate</p> <p>23 companies account for spaces. When you rent a</p> <p>24 space in Manhattan, you have to cover the common</p> <p>25 areas. You have a larger building, that</p>
<p>42</p> <p>1 sublease agreement, defendant is obligated to</p> <p>2 plaintiff for rent and additional rent from 2019</p> <p>3 and the conclusion of the lease term on 2021,</p> <p>4 minus the security deposit, for a total of</p> <p>5 713,000."</p> <p>6 Q. What was that amount?</p> <p>7 A. \$713,571.87.</p> <p>8 Q. Thank you.</p> <p>9 Did Oxford ever receive that</p> <p>10 money?</p> <p>11 A. I have no idea.</p> <p>12 Q. Did you receive any money from Two</p> <p>13 Franks in connection with this lawsuit?</p> <p>14 A. If I received any money? No, I</p> <p>15 didn't.</p> <p>16 Q. Did Oxford receive any money?</p> <p>17 A. I have no idea.</p> <p>18 Q. Are there any other lawsuits that</p> <p>19 Oxford has been a party to?</p> <p>20 A. Not that I know of.</p> <p>21 MS. TURNER: Thank you, John, you</p> <p>22 can take the document down.</p> <p>23 Q. So, I already defined what the</p> <p>24 premises are, but can you just describe what the</p> <p>25 physical space is?</p>	<p>44</p> <p>1 includes corridors, hallways, bathrooms,</p> <p>2 elevators, elevator shafts, areas -- the fire</p> <p>3 escapes, areas that are not specifically past</p> <p>4 your space.</p> <p>5 Real estate companies over the</p> <p>6 years have agreed to make that a -- make it a</p> <p>7 generally fixed amount of 35 percent over the</p> <p>8 usable space, depending on the kind of building</p> <p>9 that you're in. As you go to a higher rent</p> <p>10 building, that loss factor becomes higher. When</p> <p>11 you go to a lower rent building, typically that</p> <p>12 loss factor becomes lower. As opposed to in</p> <p>13 residential real estate when you rent a 1,000</p> <p>14 square foot apartment, it's 1,000 square feet.</p> <p>15 Q. Understood. Thank you for that</p> <p>16 explanation.</p> <p>17 Did the eighth floor have any</p> <p>18 windows?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know how many?</p> <p>21 A. No.</p> <p>22 Q. Did it have a bathroom?</p> <p>23 A. Yes.</p> <p>24 Q. Did it have elevator access?</p> <p>25 A. Yes.</p>

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<p>45</p> <p>1 Q. Was the eighth floor -- was the</p> <p>2 space finished or was it still under</p> <p>3 construction?</p> <p>4 MR. MARGOLIS: Objection.</p> <p>5 MR. HARRIS: Objection.</p> <p>6 MR. MARGOLIS: When are we talking</p> <p>7 about, Tara?</p> <p>8 MS. TURNER: We're talking about</p> <p>9 right now.</p> <p>10 MR. HARRIS: Today?</p> <p>11 MS. TURNER: Yes.</p> <p>12 A. It's a second generation buildout</p> <p>13 that hasn't changed very much in the past 20</p> <p>14 years.</p> <p>15 Q. What about at the time that my</p> <p>16 client applied to sublease the eighth floor?</p> <p>17 A. As I said, it's a second</p> <p>18 generation buildout that hasn't changed very</p> <p>19 much in the past 20 years.</p> <p>20 Q. Thank you. Is there a reception</p> <p>21 area in the space?</p> <p>22 A. The space can be used however a</p> <p>23 tenant would take over it. If they want to put</p> <p>24 a reception area somewhere, they put a reception</p> <p>25 area somewhere.</p>	<p>47</p> <p>1 for the eighth floor?</p> <p>2 A. It certainly -- the majority of it</p> <p>3 is accurate. I don't know, there may have been</p> <p>4 some movement in walls. This is a very old</p> <p>5 floor plan.</p> <p>6 Q. Thank you. And based on this</p> <p>7 floor plan, how many offices are on the eighth</p> <p>8 floor?</p> <p>9 A. Let's count together. One, two,</p> <p>10 three, four, five, six, seven along the right</p> <p>11 side. One, two, three, four, five, six, seven,</p> <p>12 seven along the left side; and I believe that</p> <p>13 bottom left is a kitchen, but I may be wrong.</p> <p>14 The kitchen might be in the center; I'm not 100%</p> <p>15 sure.</p> <p>16 So, approximately 14, between 14</p> <p>17 and 20. At the bottom there was a bathroom and</p> <p>18 the top I'm pretty sure that's a closet. That</p> <p>19 central common corridor area I'm pretty sure is</p> <p>20 a conference room. It may be offices. It's in</p> <p>21 that range.</p> <p>22 Q. Okay. So it has approximately 14</p> <p>23 offices?</p> <p>24 A. Approximately.</p> <p>25 Q. Thank you.</p>
<p>46</p> <p>1 Q. Is the space divided in any way?</p> <p>2 A. Yes, it's got perimeter offices.</p> <p>3 Q. How many offices?</p> <p>4 A. I don't know. Approximately 20.</p> <p>5 Approximately. Could be 10, actually. Between</p> <p>6 10 and 20.</p> <p>7 Q. Thank you.</p> <p>8 MS. TURNER: John, if you could</p> <p>9 pull up the document by Bates number, it begins</p> <p>10 with CCMS and ends in 173.</p> <p>11 THE TECHNICIAN: Stand by,</p> <p>12 counsel.</p> <p>13 (Exhibit R marked for</p> <p>14 identification.)</p> <p>15 THE TECHNICIAN: That document is</p> <p>16 on screen now, marked as Exhibit R.</p> <p>17 MS. TURNER: Thank you.</p> <p>18 BY MS. TURNER:</p> <p>19 Q. Mr. Shamash, I'm going to</p> <p>20 represent to you that the plaintiff produced</p> <p>21 this document in this litigation, but do you</p> <p>22 recognize this first page?</p> <p>23 A. Yeah. It's an older floor plan of</p> <p>24 the space.</p> <p>25 Q. Is this floor plan still accurate</p>	<p>48</p> <p>1 When did Oxford take over the</p> <p>2 eighth floor?</p> <p>3 A. When they bought it?</p> <p>4 Q. Yes.</p> <p>5 A. You've asked me that question</p> <p>6 already. Within two years or so, between like</p> <p>7 2003 and 2006, in that range.</p> <p>8 MS. TURNER: John, you can</p> <p>9 actually take down Exhibit R.</p> <p>10 Q. How long is Oxford's lease for,</p> <p>11 for the space?</p> <p>12 A. Oh, I'm sorry. Typically a lease</p> <p>13 is 99 years, but this specific one I don't know.</p> <p>14 Q. Working backwards, could you</p> <p>15 identify the subtenants for the premises,</p> <p>16 working back to when Oxford bought the eighth</p> <p>17 floor?</p> <p>18 A. I can remember Two Franks; you</p> <p>19 showed me an exhibit. Had a couple of media</p> <p>20 companies inside there over the years. I don't</p> <p>21 remember them by name, to be honest.</p> <p>22 Q. Is there a subtenant in the space</p> <p>23 currently, in the premises?</p> <p>24 A. No.</p> <p>25 Q. No. After CCMS's sublease was</p>

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<p>49</p> <p>1 rejected, was there a subtenant in that space</p> <p>2 between that time period, roughly January 2020</p> <p>3 and today?</p> <p>4 A. No.</p> <p>5 Q. And before CCMS's sublease was</p> <p>6 rejected, the prior tenant was Two Franks,</p> <p>7 correct?</p> <p>8 A. Was there someone in between? I</p> <p>9 don't know. I think there was another gap.</p> <p>10 Q. And before Two Franks, who was the</p> <p>11 subtenant in the premises?</p> <p>12 A. There were a series of media</p> <p>13 companies. One of them was a video game</p> <p>14 developer. That one I remember well. I like</p> <p>15 video games.</p> <p>16 Q. How long were they in the space,</p> <p>17 the video game developer?</p> <p>18 A. That's a really good question.</p> <p>19 Maybe five years, maybe. I think they actually</p> <p>20 had an IPO at one point during it. In the range</p> <p>21 of five years.</p> <p>22 Q. Since Oxford purchased the</p> <p>23 premises, how many total tenants, subtenants,</p> <p>24 have used the space?</p> <p>25 A. No clue.</p>	<p>51</p> <p>1 to the space?</p> <p>2 A. No.</p> <p>3 Q. Generally when tenants have</p> <p>4 visitors to the building, what elevator do they</p> <p>5 use?</p> <p>6 A. Passenger elevator, unless the</p> <p>7 visitor is delivering something.</p> <p>8 Q. And then what elevator would they</p> <p>9 use if they were delivering something?</p> <p>10 A. The freight elevator; unless, of</p> <p>11 course, they're picking something up.</p> <p>12 Q. What elevator would they use if</p> <p>13 they were picking something up?</p> <p>14 A. The freight elevator, I'd hope, if</p> <p>15 they were.</p> <p>16 Q. Understood.</p> <p>17 Is the premises currently for</p> <p>18 rent?</p> <p>19 A. Yes.</p> <p>20 Q. Is it currently for sale?</p> <p>21 A. It goes on and off for sale. We</p> <p>22 don't know. I think everything is for sale if</p> <p>23 you get the right price.</p> <p>24 Q. When was the last time it was</p> <p>25 formally up for sale, the premises?</p>
<p>50</p> <p>1 Q. Less than ten?</p> <p>2 A. Less than ten I would imagine.</p> <p>3 Q. Do you recall any other subtenants</p> <p>4 besides the video game developer?</p> <p>5 A. Specifically, no.</p> <p>6 Q. On average, how long were the</p> <p>7 leases for these subtenants?</p> <p>8 A. Between three and ten years the</p> <p>9 length of the leases that we typically sign,</p> <p>10 with a focus on volume, preferably.</p> <p>11 Q. Do you recall with the video game</p> <p>12 developer?</p> <p>13 A. I don't know what they signed the</p> <p>14 lease under, but it eventually merged to become</p> <p>15 THQ, which I think was then later bought by a</p> <p>16 company called Activision, which may have become</p> <p>17 Activision Blizzard, but I don't know if that</p> <p>18 was all during our tenure or not.</p> <p>19 Q. I definitely know Blizzard, that's</p> <p>20 one I know.</p> <p>21 Q. Speaking of Two Franks, how often</p> <p>22 did -- do you recall how many employees Two</p> <p>23 Franks had that used the space?</p> <p>24 A. (Witness shakes head.)</p> <p>25 Q. Do you know if they had visitors</p>	<p>52</p> <p>1 A. That I don't know. You have to</p> <p>2 define the word "formally" really.</p> <p>3 Q. When was the last time marketing</p> <p>4 materials were prepared to advertise the sale of</p> <p>5 the premises?</p> <p>6 A. I would say we certainly</p> <p>7 contemplated a sale after it's been vacant for</p> <p>8 so long. In the past two years I haven't been</p> <p>9 party to any marketing materials or an exclusive</p> <p>10 that's being signed with a broker.</p> <p>11 Q. Talking about the building where</p> <p>12 the premises is located, you said there are 12</p> <p>13 floors in the building, correct?</p> <p>14 A. Um-hum.</p> <p>15 Q. Does the size of each floor vary?</p> <p>16 A. I don't believe so, no. I believe</p> <p>17 the building is a right angle.</p> <p>18 Q. And Oxford also leases the seventh</p> <p>19 floor of 129 West 27th Street, correct?</p> <p>20 A. That is right.</p> <p>21 Q. And who occupies the seventh</p> <p>22 floor?</p> <p>23 A. It's currently vacant.</p> <p>24 Q. How long has it been vacant?</p> <p>25 A. I don't recall.</p>

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<p>53</p> <p>1 Q. Do you recall the last tenant in 2 the seventh floor?</p> <p>3 A. The last tenant I can't tell you 4 by name, but they were an engineering company.</p> <p>5 Q. And when did their lease end?</p> <p>6 A. It's foggy, but within the past 7 three years since the pandemic.</p> <p>8 Q. Do you recall any other subtenants 9 that used the seventh floor?</p> <p>10 A. Oh, no, actually THQ, actively. I 11 believe they had both floors.</p> <p>12 Q. They had both floors.</p> <p>13 A. That's right.</p> <p>14 Q. And they could use both floors 15 because there's a stairwell that connects the 16 floors, seventh and eighth?</p> <p>17 A. Yes. Although it's closed at this 18 point. The frame of it is there and maybe in 19 the floor plan, probably is in the floor plan 20 that shows it.</p> <p>21 Q. So it's possible for subtenants to 22 rent both the seventh and eighth floor?</p> <p>23 A. That is correct.</p> <p>24 Q. Do you recall how many people 25 worked at the engineering firm that used the</p>	<p>55</p> <p>1 between three and seven years. I think they 2 were probably there for five years, in that 3 range.</p> <p>4 Q. I know you can't remember anyone 5 but the engineering firm, but can you estimate 6 how many total subtenants you had in the seventh 7 floor?</p> <p>8 A. It's exactly the same answer as 9 what I gave for the eighth.</p> <p>10 Q. So less than ten?</p> <p>11 A. Whatever I answered for the 12 eighth.</p> <p>13 Q. Mr. Shamash, we've discussed the 14 seventh and eighth floor of the building. How 15 many of the total floors were occupied at the 16 time CCMS applied to sublease the premises?</p> <p>17 A. Ask the question again. Sorry.</p> <p>18 Q. How many floors of the building 19 were occupied at the time CCMS applied to 20 sublease the premises?</p> <p>21 A. All of them, I think.</p> <p>22 Q. So excluding the seventh and 23 eighth floor, all other floors were occupied at 24 the time CCMS applied to sublease?</p> <p>25 A. I think I'm the only person who</p>
<p>54</p> <p>1 seventh floor?</p> <p>2 A. No. I don't really interact with 3 the tenants.</p> <p>4 Q. Do you -- go ahead.</p> <p>5 A. That's it.</p> <p>6 Q. Do you know if the engineering 7 firm had any visitors to their building?</p> <p>8 A. No idea.</p> <p>9 Q. Why is the seventh floor still 10 empty?</p> <p>11 A. Because we've been unable to find 12 a tenant to replace them.</p> <p>13 Q. And why is the eighth floor still 14 empty?</p> <p>15 A. Because we've been unable to find 16 a tenant to replace them.</p> <p>17 Q. Is the seventh floor still 18 currently for rent?</p> <p>19 A. Yes.</p> <p>20 Q. Is it also for sale?</p> <p>21 A. It's exactly the same answers as 22 the eighth floor.</p> <p>23 Q. Do you recall how long the 24 engineering firm occupied the seventh floor?</p> <p>25 A. They would have signed a lease for</p>	<p>56</p> <p>1 leases floors, or Oxford is the only entity that 2 leases floors in that building, I believe. I 3 could be wrong, but I believe. That's my 4 understanding.</p> <p>5 Q. Thank you. Thinking back to 6 December 2019 through January 2020, if you 7 recall, who occupied each floor of the building 8 besides the seventh and eighth?</p> <p>9 A. I don't remember who occupied the 10 floors during that time on the seventh floor. I 11 don't have a good recollection of dates 12 specifically, but I can tell you at the time 13 when CCMS was looking at the space, it was 14 vacant.</p> <p>15 Q. The seventh and eighth floor were 16 vacant?</p> <p>17 A. The eighth floor.</p> <p>18 Q. There was a tenant in the seventh 19 floor during that time?</p> <p>20 A. I'm not sure. I think so. It 21 could have been the engineering company then, 22 but I'm not sure. I wouldn't doubt it.</p> <p>23 Q. Thinking back to the time that 24 CCMS applied to sublease the premises, was 25 Joseph or Joey Grill occupying the 12th floor</p>

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<p>57</p> <p>1 under Click Models?</p> <p>2 A. Joey's been in that building for</p> <p>3 as long as I can remember, but I don't know what</p> <p>4 company he owns.</p> <p>5 Q. Understood. And was he occupying</p> <p>6 the 12th floor?</p> <p>7 A. Him physically as an entity or as</p> <p>8 a person?</p> <p>9 Q. Either.</p> <p>10 A. As a person, I have no idea. He's</p> <p>11 a jet setter; he goes all over the world. He</p> <p>12 has a great lifestyle. No idea where he is. As</p> <p>13 a company, yes, there's a company up there.</p> <p>14 Q. Understood. That's that same time</p> <p>15 period when CCMS applied to sublease the</p> <p>16 premises. Was Eric Doctormann occupying the</p> <p>17 11th floor?</p> <p>18 A. With due respect to him, I'm sure</p> <p>19 he's a very nice guy, I know nothing about him.</p> <p>20 I know his name when you say it, but I didn't</p> <p>21 know his last name prior to this.</p> <p>22 Q. Do you know if he still occupies</p> <p>23 any floors in the building?</p> <p>24 A. I have no idea.</p> <p>25 Q. Okay. Again, thinking back to the</p>	<p>59</p> <p>1 sublease the premises, was Mr. Conte -- and</p> <p>2 forgive me if I'm mispronouncing that -- was his</p> <p>3 business occupying the sixth floor?</p> <p>4 A. I believe so.</p> <p>5 Q. And was that Honig Conte Porrino</p> <p>6 Insurance Agency, Inc.?</p> <p>7 A. I guess so.</p> <p>8 Q. Thank you.</p> <p>9 Have you ever heard the name</p> <p>10 Barbara Torgerson?</p> <p>11 A. Who?</p> <p>12 Q. Torgerson, T-o-r-g-e-r-s-o-n.</p> <p>13 A. Barbara Torgerson, no.</p> <p>14 Q. Have you ever heard the name</p> <p>15 Donald Baechler, B-a-e-c-h-l-e-r?</p> <p>16 A. No.</p> <p>17 Q. At the time CCMS applied to</p> <p>18 sublease the premises, what floors was Marc</p> <p>19 Paturet occupying?</p> <p>20 A. Do you remember you said there was</p> <p>21 someone who I'm not sure what his name was,</p> <p>22 never heard it; is that him or is that Marc? I</p> <p>23 confuse those two people.</p> <p>24 Q. Oh, I'm not sure what --</p> <p>25 A. So you named someone in the last</p>
<p>58</p> <p>1 time that CCMS applied to sublease the premises,</p> <p>2 was Maxime Touton through -- and I'm going to</p> <p>3 butcher this -- Monsieur Touton Selection</p> <p>4 Limited, occupying the ninth and tenth floors?</p> <p>5 A. There are two Toutons. I don't</p> <p>6 know the first name of either. One is the</p> <p>7 father or the uncle, and one is the son or the</p> <p>8 nephew; and they are in the ninth floor, I</p> <p>9 think. I think the ninth and the tenth, I</p> <p>10 think.</p> <p>11 Q. And similar to the seventh and</p> <p>12 eighth floor, are the ninth and tenth floors</p> <p>13 connected by a staircase?</p> <p>14 A. I have no idea.</p> <p>15 Q. Have you ever been up to the ninth</p> <p>16 or tenth floor?</p> <p>17 A. Yeah, once or twice.</p> <p>18 Q. But you don't recall if there's a</p> <p>19 staircase connecting the floors?</p> <p>20 A. (Witness shakes head.)</p> <p>21 Q. But generally the Touton entity</p> <p>22 occupies both of those floors?</p> <p>23 A. As far as I recall.</p> <p>24 Q. Thank you.</p> <p>25 And at the time CCMS applied to</p>	<p>60</p> <p>1 question. Who was it you named last?</p> <p>2 Q. Donald Baechler.</p> <p>3 A. Before that. You were talking</p> <p>4 about the tenants on the floors. You said</p> <p>5 Mr. Touton, you said Joey Grill, and who was the</p> <p>6 other guy?</p> <p>7 Q. Eric Doctormann?</p> <p>8 A. Okay. And who did you just</p> <p>9 reference right now?</p> <p>10 Q. Marc Paturet. It's P-a-t-u-r-e-t.</p> <p>11 A. I confuse the two people. I don't</p> <p>12 know. I haven't really interacted with either.</p> <p>13 Q. Okay. So you don't know which</p> <p>14 floors Marc Paturet occupied at the premises?</p> <p>15 A. If you told me Marc and -- I'm</p> <p>16 really bad with names, Marc and who are you</p> <p>17 asking this time? If you told me one was on 11</p> <p>18 and one was on five, three, what are they on?</p> <p>19 If you told me which one is which, I could tell</p> <p>20 you.</p> <p>21 Q. So you recognize both names but</p> <p>22 you don't have any personal knowledge as to</p> <p>23 which floors they occupy?</p> <p>24 A. I don't really interact with them.</p> <p>25 I recognize both names.</p>

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<p>61</p> <p>1 Q. Understood. If I reminded you</p> <p>2 Marc Paturet's company is Hand Held Films, would</p> <p>3 that refresh your recollection as to when --</p> <p>4 A. Yeah, Hand Held Films has a sign</p> <p>5 on the lower end of the building, on the bottom</p> <p>6 of the building, so I know very well where they</p> <p>7 are because I pass it all the time.</p> <p>8 Q. Could you just describe what that</p> <p>9 lower level of the building looks like?</p> <p>10 A. Yeah. They're retail space, has a</p> <p>11 bunch of film equipment, they have something to</p> <p>12 do with film equipment there.</p> <p>13 Q. As of now, today, how many floors</p> <p>14 in the building are currently occupied?</p> <p>15 A. I haven't been there in many</p> <p>16 years. Probably the last time I was at that</p> <p>17 building was at the meeting. Maybe I've been</p> <p>18 there once or twice since, so I could not tell</p> <p>19 you what's occupied and what's not.</p> <p>20 Q. Do you know if anyone -- any of</p> <p>21 the individuals I just spoke about, which were</p> <p>22 Joey Grill, Eric Doctormann, Maxime Touton, F.</p> <p>23 Michael Conte and Marc Paturet, do you know if</p> <p>24 any of them have left the building, the</p> <p>25 premises?</p>	<p>63</p> <p>1 the record at 11:55.</p> <p>2 (Recess taken.)</p> <p>3 THE VIDEOGRAPHER: We're back on</p> <p>4 the record. The time is 12:06.</p> <p>5 BY MS. TURNER:</p> <p>6 Q. Mr. Shamash, am I pronouncing that</p> <p>7 correctly?</p> <p>8 A. Shamash.</p> <p>9 Q. Okay. Before we took a break, I</p> <p>10 told you that I was going to ask you some</p> <p>11 questions about the individual defendants. Are</p> <p>12 you ready to proceed?</p> <p>13 A. Sure.</p> <p>14 Q. Okay. With regards to defendant</p> <p>15 Mr. F. Michael Conte, can you just remind me</p> <p>16 what floor he or his business occupied in the</p> <p>17 building?</p> <p>18 A. He's on a floor below me. I think</p> <p>19 he's on sixth. He may be on five.</p> <p>20 Q. And Mr. Conte's business is, as we</p> <p>21 stated previously, Honig Conte Porrino Insurance</p> <p>22 Agency, correct?</p> <p>23 A. Um-hum.</p> <p>24 Q. Have you ever visited the floor</p> <p>25 that Mr. Conte occupies?</p>
<p>62</p> <p>1 A. I have no interaction with any of</p> <p>2 them.</p> <p>3 Q. And do you know if there are any</p> <p>4 new occupants in the building besides the ones</p> <p>5 we discussed?</p> <p>6 A. Not that I know of.</p> <p>7 Q. Do you recognize anyone with the</p> <p>8 last name Guercio, G-u-e-r-c-i-o?</p> <p>9 A. Do you have a first name?</p> <p>10 Q. No.</p> <p>11 A. No.</p> <p>12 Q. Okay. Now I'm going to go through</p> <p>13 sort of these individuals we just discussed,</p> <p>14 which all of them besides Eric Doctormann are</p> <p>15 defendants in this action, and I have a series</p> <p>16 of questions for each defendant.</p> <p>17 A. Can you give me a minute while I</p> <p>18 take a quick bathroom break?</p> <p>19 Q. We're going to take a break, I</p> <p>20 think Barry needs to hop off at 12:15 and we had</p> <p>21 a pre-scheduled lunch. Could you possibly hold</p> <p>22 it, or would you like to go now?</p> <p>23 THE WITNESS: I'd rather go now.</p> <p>24 MS. TURNER: Okay, sure.</p> <p>25 THE VIDEOGRAPHER: We're going off</p>	<p>64</p> <p>1 A. I have no memory of going to his</p> <p>2 floor. Oh, during the time we were meeting on</p> <p>3 the floor, actually, you're correct. So I have</p> <p>4 been on his floor, yeah.</p> <p>5 Q. So you visited his floor on</p> <p>6 January 14th, 2020 when CCMS was interviewed for</p> <p>7 the sublease?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall visiting that floor</p> <p>10 at any other time?</p> <p>11 A. Not that I know of.</p> <p>12 Q. Do you know how long Mr. Conte and</p> <p>13 his business have occupied that space?</p> <p>14 A. No.</p> <p>15 Q. Do you know how many people work</p> <p>16 in that space?</p> <p>17 A. No clue.</p> <p>18 Q. Do you know how many visitors the</p> <p>19 insurance agency gets?</p> <p>20 A. No.</p> <p>21 Q. Do you know if the employees and</p> <p>22 visitors to the insurance agency use the</p> <p>23 elevators?</p> <p>24 A. I have no idea.</p> <p>25 Q. Is Mr. Conte currently a board</p>

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<p>65</p> <p>1 member of the co-op?</p> <p>2 A. I don't know.</p> <p>3 Q. Was Mr. Conte a board member of</p> <p>4 the co-op when CCMS applied to sublease the</p> <p>5 premises?</p> <p>6 A. I believe so, yes.</p> <p>7 Q. Do you know how long he was a</p> <p>8 board member?</p> <p>9 A. No idea.</p> <p>10 Q. Do you know if he holds a specific</p> <p>11 position on the board?</p> <p>12 A. I have no idea.</p> <p>13 Q. Do you know Mr. Conte's race or</p> <p>14 ethnicity?</p> <p>15 A. I have no idea what his ethnicity</p> <p>16 is.</p> <p>17 Q. But he is not Black?</p> <p>18 A. He's not Black.</p> <p>19 MR. HARRIS: Objection to form.</p> <p>20 Q. How often have you spoken with</p> <p>21 Mr. Conte?</p> <p>22 A. How often?</p> <p>23 Q. Um-hum.</p> <p>24 A. Once a decade.</p> <p>25 Q. And just to confirm from earlier,</p>	<p>67</p> <p>1 A. I don't know if I've ever been on</p> <p>2 ten. I've been on ninth once.</p> <p>3 Q. Could you describe the physical</p> <p>4 space, the ninth and tenth floor?</p> <p>5 A. I can't describe the tenth. The</p> <p>6 ninth is a wood paneled office space with wine</p> <p>7 everywhere. They sell wine.</p> <p>8 Q. Is that similar to the eighth</p> <p>9 floor?</p> <p>10 A. No, we don't have any wine on the</p> <p>11 eighth floor.</p> <p>12 Q. Do you know how long the Touton</p> <p>13 company has occupied that space?</p> <p>14 A. I don't know.</p> <p>15 Q. Do you know how many people work</p> <p>16 there?</p> <p>17 A. No.</p> <p>18 Q. Do you know how many -- do you</p> <p>19 know if they get visitors to that space?</p> <p>20 A. No.</p> <p>21 Q. Do they share their wine?</p> <p>22 A. They've never offered me any.</p> <p>23 Q. Do you know if the Touton</p> <p>24 employees and visitors use the elevator?</p> <p>25 A. I would imagine.</p>
<p>66</p> <p>1 have you ever discussed this case or the facts</p> <p>2 of this case with him?</p> <p>3 A. No.</p> <p>4 Q. What's the substance of the</p> <p>5 conversations you've had with him?</p> <p>6 A. I've discussed nothing of</p> <p>7 substance with Mr. Conte.</p> <p>8 Q. Nothing related to the building?</p> <p>9 MR. HARRIS: Objection. Is this</p> <p>10 regarding in the meeting as well or just in</p> <p>11 general? I mean, is this forevermore?</p> <p>12 THE WITNESS: I think she means</p> <p>13 outside of the meeting.</p> <p>14 Q. Separate from the January 14th,</p> <p>15 2020 interview. We're just talking generally</p> <p>16 your interactions with all of these individuals.</p> <p>17 We'll get into the specifics --</p> <p>18 A. Technically I've had no</p> <p>19 interactions with anyone.</p> <p>20 Q. Mr. Maxime Touton, what floors</p> <p>21 does the Touton business occupy?</p> <p>22 A. I said previously nine and ten, as</p> <p>23 far as I can recall.</p> <p>24 Q. Thank you. And you visited the</p> <p>25 ninth and tenth floor before?</p>	<p>68</p> <p>1 Q. Is Mr. Touton currently a board</p> <p>2 member of the co-op?</p> <p>3 A. I don't know.</p> <p>4 Q. Was Mr. Touton a board member of</p> <p>5 the co-op when CCMS applied to sublease the</p> <p>6 premises?</p> <p>7 A. I -- when you say Mr. Touton,</p> <p>8 there are two Mr. Toutons.</p> <p>9 Q. I'm referring to Maxime Touton.</p> <p>10 A. I don't know their first names.</p> <p>11 Q. But there was a gentleman with the</p> <p>12 last name Touton who was a board member?</p> <p>13 A. Yes.</p> <p>14 Q. Thank you.</p> <p>15 Do you know if Mr. Touton had a</p> <p>16 specific position on the board?</p> <p>17 A. No.</p> <p>18 Q. Do you know how long he was a</p> <p>19 board member?</p> <p>20 A. No.</p> <p>21 Q. Do you know Mr. Touton's race or</p> <p>22 ethnicity?</p> <p>23 A. I have no idea of his ethnicity.</p> <p>24 He's French.</p> <p>25 Q. And he is not Black, correct?</p>

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<p>69</p> <p>1 A. No. He's French.</p> <p>2 MR. HARRIS: When you say Black,</p> <p>3 you're talking about skin color, correct?</p> <p>4 MS. TURNER: Yes.</p> <p>5 Q. How often have you spoken with</p> <p>6 Mr. Touton?</p> <p>7 A. If ever.</p> <p>8 Q. When you did visit the ninth</p> <p>9 floor, what was the context for your visit?</p> <p>10 A. Many, many years ago there was a</p> <p>11 shareholders' meeting on his floor. I've been</p> <p>12 there once. I wasn't there for long, though.</p> <p>13 Q. What was the subject of the</p> <p>14 shareholders' meeting?</p> <p>15 A. It's a shareholders' meeting, so</p> <p>16 general maintenance and things like that. As I</p> <p>17 said, it's been a long time, but it was nothing</p> <p>18 of substance and nothing particularly</p> <p>19 interesting.</p> <p>20 MS. TURNER: John, if you could</p> <p>21 pull up document 3.</p> <p>22 THE TECHNICIAN: Stand by,</p> <p>23 counsel.</p> <p>24 (Exhibit S marked for</p> <p>25 identification.)</p>	<p>71</p> <p>1 the lounge furniture and couches in this space?</p> <p>2 A. I don't know the layout of the</p> <p>3 space, so I have no idea.</p> <p>4 MR. HARRIS: Objection to form.</p> <p>5 Q. Does this look like the type of</p> <p>6 space where a company might invite clients or</p> <p>7 visitors?</p> <p>8 MR. HARRIS: Object to form.</p> <p>9 A. Once again, I don't know the</p> <p>10 layout of that space, but it certainly looks</p> <p>11 nice.</p> <p>12 Q. It does.</p> <p>13 If you could look below the images</p> <p>14 to bullet 4, could you just read the fourth</p> <p>15 bullet for me?</p> <p>16 A. "Our 12,000 square foot Manhattan</p> <p>17 headquarters serves as the base for our</p> <p>18 operations departments and our national sales</p> <p>19 force team," and then it's covered up from the</p> <p>20 Zoom meeting. I can't read anymore what's to</p> <p>21 the right of it. "We offer state of the art</p> <p>22 graphics and marketing" --</p> <p>23 Q. Can you finish that.</p> <p>24 A. "Our sales force team of nearly</p> <p>25 200 people."</p>
<p>70</p> <p>1 THE TECHNICIAN: Document 3 is on</p> <p>2 screen marked as Exhibit S.</p> <p>3 MS. TURNER: I'm going to</p> <p>4 represent that this is a copy of the "About Our</p> <p>5 Company" page from Mr. Touton's company that I</p> <p>6 pulled off the internet this morning, so we know</p> <p>7 it's current. And you've marked this as Exhibit</p> <p>8 S.</p> <p>9 Q. Mr. Shamash, looking at the top</p> <p>10 images, do you recognize this space as</p> <p>11 Mr. Touton's?</p> <p>12 A. I recognize it as a wood panelled</p> <p>13 office with a lot of wine.</p> <p>14 Q. Is it fair to say this is likely</p> <p>15 Mr. Touton's space?</p> <p>16 A. Likely Mr. Touton's office, yes.</p> <p>17 Q. Does this look like the type of</p> <p>18 space that you would have administrative</p> <p>19 offices?</p> <p>20 A. Yes, it does. Looking at the</p> <p>21 picture behind that glass door, it's</p> <p>22 administrative. If you look at the picture on</p> <p>23 the right behind those glass walls, it's</p> <p>24 administrative.</p> <p>25 Q. And what would the purpose be for</p>	<p>72</p> <p>1 Q. Thank you, Mr. Shamash.</p> <p>2 Do you know if salespeople use</p> <p>3 this space?</p> <p>4 A. Possibly.</p> <p>5 Q. Do you know if Mr. Touton hosts</p> <p>6 clients and salespeople in the office?</p> <p>7 A. I have no idea.</p> <p>8 MS. TURNER: John, you can take</p> <p>9 down Exhibit S.</p> <p>10 Q. Now I'm going to ask you some</p> <p>11 questions about Joey Grill. Can you just remind</p> <p>12 me what floor his company operates or occupies,</p> <p>13 I'm sorry?</p> <p>14 A. Joey is on the 12th floor.</p> <p>15 Q. And what's his business generally?</p> <p>16 A. Models.</p> <p>17 Q. And have you ever visited the 12th</p> <p>18 floor?</p> <p>19 A. Once or twice.</p> <p>20 Q. Could you describe it?</p> <p>21 A. Concrete floors, concrete</p> <p>22 ceilings, exposed open plan, as far as I can</p> <p>23 remember.</p> <p>24 Q. Would it be considered the</p> <p>25 penthouse of the building?</p>

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<p>73</p> <p>1 A. Well, it's on the top floor; that 2 would be defined as the penthouse, the top 3 floor. 4 Q. Thank you. 5 Is the space similar to the space 6 on the eighth floor? 7 A. No. One's filled and one's open, 8 from my memory. 9 Q. Do you know how long Joey Grill's 10 company has occupied that space? 11 A. No. 12 Q. Do you know how many people work 13 in that space? 14 A. No idea. 15 Q. When you went up to visit, did you 16 see any employees in the space? 17 A. Not that I recall. 18 Q. Do you know if anyone visits the 19 space? 20 A. No idea. 21 Q. No models visit the space? 22 A. One would imagine. 23 Q. Would those models or visitors use 24 the elevator? 25 A. I don't even know if they visit</p>	<p>75</p> <p>1 Q. How often do you speak with 2 Mr. Grill? 3 A. I haven't spoken to him since. 4 Q. Since what? 5 A. Since the first meeting. 6 Q. January 14th, 2020? 7 A. Yes. 8 Q. Thank you. 9 Before that meeting, when was the 10 last time -- the prior time you spoke to him? 11 A. Sometime in the three to five 12 years preceding that. 13 Q. But you didn't speak to him 14 regularly? 15 A. No. 16 MS. TURNER: John, if you could 17 pull up document 4. 18 THE TECHNICIAN: Stand by, 19 counsel. 20 (Exhibit T marked for 21 identification.) 22 THE TECHNICIAN: Document 4 is on 23 screen now marked as Exhibit T. 24 Q. Mr. Shamash, I'm going to 25 represent to you that this is a copy of the</p>
<p>74</p> <p>1 the space. They might be on Zoom calls all day. 2 No idea. 3 Q. Is Mr. Grill currently a board 4 member of the Co-op? 5 A. I believe so. At the time. Now, 6 I don't know. 7 Q. Now you don't know. But he was a 8 board member of the co-op when CCMS applied to 9 sublease the premises? 10 A. To the best of my knowledge, yes. 11 Q. Do you know how long he was a 12 board member? 13 A. No idea. 14 Q. Do you know if he had a specific 15 position on the board? 16 A. No, ma'am. 17 Q. I'm sorry, I didn't hear that. 18 A. No. 19 Q. Do you know Mr. Grill's race or 20 ethnicity? 21 A. I do not. 22 Q. Would it be fair to say he's not 23 Black? 24 A. It would be fair that he's not 25 Black.</p>	<p>76</p> <p>1 About page of Mr. Grill's company Click Models, 2 which occupies the 12th floor; and I pulled this 3 off the internet this morning, so it is current. 4 And we're marking this as Exhibit T. 5 Could you, Mr. Shamash, please 6 read the first sentence of the second paragraph. 7 A. "Over the past 30 years Click has 8 added offices throughout the United States and 9 presently represents over 1,000 models with 10 divisions focusing on women, men, plus size, 11 runway, showroom" -- I believe that says FIT, I 12 don't know what that means, "and television 13 commercials. The talent division manages" -- 14 Q. Just the first sentence. 15 A. I'm sorry? 16 Q. You were good with just the first 17 sentence. 18 A. Okay, great. 19 Q. Thank you. Do you know if Click 20 Models ever hosts photo shoots? 21 A. I have no idea. No clue. 22 MS. TURNER: John, you can take 23 down Exhibit T. 24 Q. The last questions I have are in 25 relation -- for this section, are related to</p>

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<p>77</p> <p>1 Mr. Paturet, which we discussed earlier. Do you 2 now understand he operates Hand Held Films? 3 A. Okay. 4 MR. HARRIS: Objection to form. 5 MR. CASE: Object to form. 6 Q. Do you recall what floors Hand 7 Held Films occupies? 8 A. Ground floor. 104. And I think 9 the basement, too. 10 Q. Do you know how long Hand Held 11 Films has occupied those spaces? 12 A. Exactly, no, but it has to be from 13 when 27th Street had Hand Held Films in the 14 ground floor. I don't remember who the previous 15 retail tenant was, but it's been at least five 16 years. 17 Q. Do you know how many people work 18 in that space? 19 A. I don't. 20 Q. Have you ever seen people coming 21 and going from that space? 22 A. No. 23 Q. Is Mr. Paturet currently a board 24 member of the co-op? 25 A. Apparently so.</p>	<p>79</p> <p>1 remember who he was. 2 A. Um-hum. I also don't know if he's 3 Black. I don't know. 4 Q. Understood. Thank you. 5 Have you ever noticed visitors to 6 the retail space on the first floor? 7 A. Yeah. 8 Q. How many people would you say 9 visit daily? 10 A. I can't say visit daily, but we 11 work down the street. So I see trucks outside 12 and customers walking in and out all the time. 13 It's a retail space. 14 Q. So people visit daily. You just 15 can't give a specific number? 16 A. They visit daily. Customers, 17 daily. 18 Q. And what are customers doing when 19 they visit? 20 A. I don't know, but they congregate 21 around the freight elevator. 22 Q. Are they moving equipment, 23 perhaps? 24 A. I couldn't tell you. 25 Q. The next main thing I want to</p>
<p>78</p> <p>1 Q. It was a question. 2 A. I guess so. Same question, by the 3 way, you just asked me the same question again. 4 Was he at the time; yes, I believe so. Is he 5 currently; I have no idea. 6 Q. Oh, sorry, I was getting to the 7 question. I'm sorry if that was confusing. 8 So I asked is he currently a board 9 member of the co-op? 10 A. No idea. 11 Q. No idea. Was he a board member of 12 the co-op when CCMS applied to sublease the 13 premises? 14 A. To my understanding, yes. 15 Q. Did he hold a specific position on 16 the board? 17 A. Not that I know of, but maybe. I 18 don't know. 19 Q. How long was he a board member? 20 A. No idea. 21 Q. Do you know Mr. Paturet's race or 22 ethnicity? 23 A. I have no idea. 24 Q. It's not a fair question because I 25 know you previously stated you didn't exactly</p>	<p>80</p> <p>1 focus on, and we're talking generally, not 2 specific to the dispute with CCMS, but in the 3 past when Oxford has subleased the seventh or 4 the eighth floor, can you just walk me through 5 that process. 6 A. Sure. A listing gets put onto a 7 multiple listing site. Typically for commercial 8 real estate it is a company called CoStar or a 9 company called LoopNet, happen to be owned by 10 the same company. Put up a listing of a space 11 for rent, either through a broker or as an owner 12 or an owner's representative. Brokers typically 13 rally tenants, call up, see if the space is 14 available. 15 In our case, the response is 16 formulated, it's always a yes if it's available. 17 If it's with a lease out, we tell them it's 18 going to lease out. But anything outside of 19 that, the answer is always yes. 20 Any questions superfluous to that 21 can be used as a whatever typically are 22 responded to with the words "have a look at it 23 first," and we'll talk about it afterwards, 24 after you make an offer. 25 You then show the space or,</p>

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<p>81</p> <p>1 rather, they go over there through the -- they 2 take their customer in through the freight 3 elevator with the super. He takes them up, he 4 shows them the space, and 90 percent of the time 5 you don't hear anything back from them 6 afterwards. But when we do get something from 7 them, they might have some follow-up questions, 8 you answer them to the best of your ability. 9 They make a term sheet. The term sheet is then 10 sent over to the attorneys. The attorneys 11 respond accordingly, and hopefully there is a 12 lease that's generated accordingly. 13 That's the general gist of how 14 real estate in Manhattan works. 15 Q. Thank you. 16 And once you've agreed upon terms 17 with a potential subtenant, at what point does 18 the property manager get involved? 19 A. The property manager is usually 20 there to respond to business terms; legal is 21 there for legal terms. 22 Q. So at what stage does the property 23 manager get involved? 24 MR. HARRIS: Objection to form. 25 Property manager for the co-op?</p>	<p>83</p> <p>1 owner or lessor doesn't have to countersign the 2 lease. If you have a signed lease and deposits, 3 that lease has the proprietary lease as an 4 exhibit, and it's understood that it's pending 5 board approval to get it. 6 MR. MARGOLIS: I need to hear that 7 last answer. Nancy, can you read that back. 8 (Last answer read.) 9 Q. Does the property manager make a 10 recommendation about whether to approve or deny 11 the sublease? 12 A. I don't think so. 13 Q. Does the property manager run 14 background checks on the sublessee? 15 A. I don't know. 16 Q. At what point does the Co-op Board 17 get involved in the sublease process? 18 A. So, generally they would probably 19 check over an application or something to see if 20 the use is consistent; i.e. not trying to put 21 in, you know, a restaurant on the floor or 22 something like that. The initial, initial one- 23 eye-closed checks would probably be done, and if 24 you pass that initial thing they would set up a 25 board meeting.</p>
<p>82</p> <p>1 MS. TURNER: The property manager 2 for the building. 3 A. Property manager for the building. 4 MR. HARRIS: Which in this case 5 would be a co-op, the building is owned by a 6 co-op. Clarification would be helpful. 7 MS. TURNER: Thank you. 8 Q. For example, I understand Kaled 9 Management is the property manager for the 10 building. So at what point, if you were 11 subletting the seventh and eighth floor, 12 considering subletting, would you involve Kaled 13 Management? 14 A. When they have a signed lease. 15 Q. Understood. 16 In the past when Oxford has 17 subleased the seventh or eighth floor, does the 18 subtenant submit an application? 19 A. Yes. 20 Q. And when do they submit an 21 application? 22 A. When they have a signed lease. 23 Q. And when you say a signed lease, 24 do you mean when both parties sign a lease? 25 A. I don't really ask. The co-op</p>	<p>84</p> <p>1 Q. Would the board get involved in 2 the sublease before a sublease application was 3 submitted? 4 A. No. 5 Q. And in the past when you've 6 subleased the seventh or eighth floor, how have 7 you obtained board approval? 8 A. Go to a meeting and they explain 9 that they're an office use, and then they 10 check -- they ask you initial questions, traffic 11 counts and like that, you get approved. 12 Q. And is a formal meeting required? 13 A. Always. 14 Q. Are there any requirements for how 15 many board members or shareholders attend that 16 meeting? 17 A. I do not know. 18 Q. Can board approval be given in 19 writing? 20 A. In writing? 21 Q. Um-hum. 22 A. I have no idea. 23 Q. Can board approval be given 24 without the in-person meeting? 25 A. I have no idea.</p>

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<p>85</p> <p>1 Q. Has it -- in the nearly 20 years 2 you've been subleasing the seventh or eighth 3 floor, has board approval ever been given in 4 writing without a meeting? 5 THE WITNESS: Do I have to qualify 6 that she just said nearly 20 years that I -- 7 MR. HARRIS: Oh, just clarify; you 8 mean Oxford, correct? 9 MS. TURNER: Yes, I mean Oxford, 10 I'm sorry. 11 A. Okay. Can you ask the question 12 again? 13 Q. In the approximately 20 years 14 Oxford has been subleasing the seventh and 15 eighth floor, has board approval ever been given 16 in writing without a meeting? 17 A. I don't believe so. 18 Q. Do you know how many board votes 19 are required to approve a sublease? 20 A. I do not. 21 Q. Is there a difference between 22 board member votes and shareholder votes to 23 approve the sublease? 24 A. Yes. Shareholder votes don't 25 count.</p>	<p>87</p> <p>1 typically take the money in the form of a check. 2 We sometimes ask for a cashier's check. It's at 3 that point that I -- not me, but Oxford will 4 deposit the check, and hopefully we don't hear 5 from anyone after that. 6 Q. And when does the subtenant take 7 possession? 8 A. When the approval is given. 9 Q. And the checks are cashed? 10 A. I don't know if the checks being 11 cached is necessary for them to take possession. 12 Q. Understood. 13 Other than CCMS, has the co-op 14 ever denied other sublease applicants for 15 the premises -- 16 A. Not in my experience. 17 Q. I didn't get to finish my 18 question. 19 When you're saying not in your 20 experience, related to the eighth floor or in 21 all of your experience related to any floor in 22 the building? 23 A. The only floor that goes up for 24 lease is the seventh and eighth floors, as far 25 as I know.</p>
<p>86</p> <p>1 Q. What do you mean by they don't 2 count? 3 A. You have a list of shareholders, 4 everyone who owns a share. Then you have a 5 board, which is a Board of Directors. It's the 6 Board of Directors who vote on an approval. 7 Shareholder votes are absolutely irrelevant. 8 Q. So what would be the purpose then 9 of the shareholder voting? 10 A. There is no purpose. There is no 11 shareholder vote. 12 Q. Are the shareholders required to 13 place a vote? 14 A. Shareholders are not required, nor 15 are they voting members. 16 MR. HARRIS: Objection to form. 17 Just to clarify, you mean for approval of a 18 subtenant? 19 MS. TURNER: Yes. 20 A. Just for clarification, I'm also 21 saying in the act of approving a subtenant. 22 Q. Once the Co-op Board approves a 23 subtenant, what happens next? 24 A. Once they approve the subtenant, 25 the tenant provides proof of insurance, and we</p>	<p>88</p> <p>1 Q. So other than CCMS, you're not 2 aware of the co-op ever denying a sublease 3 applicant for the eighth or seventh floor? 4 A. As far as I know, as far as I 5 recall. It could have happened, but it would 6 have been a time before my tenure at the 7 premises. 8 Q. Understood. 9 How many times have you submitted 10 a subtenant to the board for approval? 11 A. Less than five, probably more like 12 three. If you're asking me personally, I don't 13 submit; submit on behalf of Oxford. Oxford in 14 the past 20 years, I don't have a count. In my 15 memory, like three, four times, tops. I'd be 16 surprised if it's more, but in that range. 17 Q. Thank you. 18 I want to shift gears now to talk 19 more specifically about the sublease with CCMS. 20 When did you first learn about CCMS? 21 A. Would have been after they toured 22 the space. 23 Q. Do you recall when that was? 24 A. No. 25 Q. Was it generally in the fall of</p>

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<p>89</p> <p>1 2019?</p> <p>2 A. Yeah, in that range.</p> <p>3 Q. Had you ever met CCMS's president,</p> <p>4 Emory Brooks, before?</p> <p>5 A. No.</p> <p>6 MR. HARRIS: Can you clarify,</p> <p>7 objection. Before what?</p> <p>8 MS. TURNER: Before CCMS sought to</p> <p>9 sublease the premises.</p> <p>10 A. No.</p> <p>11 Q. Before CCMS sought to sublease the</p> <p>12 premises, had you ever met Bob King?</p> <p>13 A. No.</p> <p>14 Q. Could you just describe for me</p> <p>15 generally what transpired when CCMS sought to</p> <p>16 sublease the eighth floor.</p> <p>17 A. That's a very general question.</p> <p>18 Could you be a bit more specific, please?</p> <p>19 Q. Can you walk me through the steps</p> <p>20 that you and Oxford and CCMS did in order to</p> <p>21 sublease the premises.</p> <p>22 A. Okay. Initially the premises is</p> <p>23 toured. Broker reaches out, asks us, through</p> <p>24 the multiple listing, if the space is available.</p> <p>25 If it's not the lease out, the answer is always</p>	<p>91</p> <p>1 term sheet, in which case you tell the lawyers,</p> <p>2 there's a change here or there.</p> <p>3 They then go through legal and the</p> <p>4 lawyers draw a lease around their understanding</p> <p>5 of the business terms, and then they sign a</p> <p>6 lease. Then they give a deposit; and then we</p> <p>7 send it over to the Board for their approval.</p> <p>8 Q. And you don't --</p> <p>9 A. And to my understanding that's how</p> <p>10 this went and how every other lease in Manhattan</p> <p>11 goes, with the exception of the board approval,</p> <p>12 it could be replaced with landlord approval, I</p> <p>13 guess.</p> <p>14 Q. Understood. And why was CCMS's</p> <p>15 sublease rejected?</p> <p>16 A. In my opinion it was rejected</p> <p>17 because they presented themselves as an office</p> <p>18 space with ancillary counseling. The moment</p> <p>19 that meeting started, it was very clear it was a</p> <p>20 counseling space with ancillary office space.</p> <p>21 Q. You didn't know that it was a</p> <p>22 counseling space?</p> <p>23 A. Absolutely not. It was a --</p> <p>24 predominantly, primarily, no, absolutely not.</p> <p>25 Ancillary, possibly. But definitely not</p>
<p>90</p> <p>1 yes. So I imagine that happened here.</p> <p>2 He would have said, how do I get</p> <p>3 inside of the space, the broker of course. I</p> <p>4 would have answered, or Saul would have</p> <p>5 answered, go straight to the building, speak to</p> <p>6 the super in the freight elevator, take the</p> <p>7 freight elevator up.</p> <p>8 At which point he would have shown</p> <p>9 it to the customer. Whether he toured it with</p> <p>10 him, without him, I have no idea. I'm not party</p> <p>11 to any of that. And we have no records of who</p> <p>12 goes in and out of the building. They just go</p> <p>13 up to the super and say, hey, we spoke to the</p> <p>14 owner, can I see the floor. The super then</p> <p>15 escorts them up there and shows them the space.</p> <p>16 Once they see the space, they look</p> <p>17 around. We are not party to any of it, we're</p> <p>18 not party to any of the conversations they have</p> <p>19 on the floor because we're not there. Get a</p> <p>20 term sheet. We then respond accordingly to the</p> <p>21 term sheet, be it on the phone, in an email.</p> <p>22 Doesn't always have to be in writing.</p> <p>23 Once there's a set of terms agreed</p> <p>24 upon, they may not be disclosed in writing on</p> <p>25 the term sheets. There might be changes in the</p>	<p>92</p> <p>1 primarily. It was very uncomfortable.</p> <p>2 Q. What was uncomfortable about</p> <p>3 the --</p> <p>4 A. The meeting. Because everyone was</p> <p>5 being nice, but it was a very uncomfortable</p> <p>6 meeting.</p> <p>7 Q. Why was it uncomfortable?</p> <p>8 A. Because at the very introduction</p> <p>9 of the thing, one of the first questions was is</p> <p>10 there narcotics counseling. And the immediate</p> <p>11 answer was, yes.</p> <p>12 At that point -- and I don't have</p> <p>13 the best memory, but there was a phone call</p> <p>14 which I'm sure we'll get into, which jogged a</p> <p>15 lot of my memory. At that point this was just</p> <p>16 the most uncomfortable conversation because it</p> <p>17 was clearly not as was presented to me, nor as</p> <p>18 was presented to the Board.</p> <p>19 Q. How long did the interview with</p> <p>20 Mr. Brooks last?</p> <p>21 A. So, I don't remember exactly. It</p> <p>22 felt like a very long time. It felt like years,</p> <p>23 but I think I dealt with that humiliation for</p> <p>24 approximately 30 to 45 minutes.</p> <p>25 Q. And who informed Mr. Brooks that</p>

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<p>93</p> <p>1 the sublease was rejected?</p> <p>2 A. It would have been their broker.</p> <p>3 Q. And did you inform his broker?</p> <p>4 A. Yes, I did.</p> <p>5 Q. So, I'm now going to go through</p> <p>6 documents leading up to the interview. This</p> <p>7 might be a little tedious, so bear with me.</p> <p>8 MS. TURNER: John, if you could</p> <p>9 pull up document 5.</p> <p>10 THE TECHNICIAN: Stand by,</p> <p>11 counsel.</p> <p>12 (Exhibit U marked for</p> <p>13 identification.)</p> <p>14 THE TECHNICIAN: Document 5 is on</p> <p>15 screen now, marked as Exhibit U.</p> <p>16 Q. Mr. Shamash, do you recognize this</p> <p>17 document?</p> <p>18 A. I don't recognize it, no.</p> <p>19 MR. MARGOLIS: Could you blow it</p> <p>20 up a little bit more.</p> <p>21 Q. I'm sorry, could you repeat your</p> <p>22 answer, Mr. Shamash.</p> <p>23 A. I don't recognize it, no.</p> <p>24 Q. You don't.</p> <p>25 Did you produce this document in</p>	<p>95</p> <p>1 term sheet for that lease?</p> <p>2 MR. HARRIS: Objection to form.</p> <p>3 You can answer.</p> <p>4 A. Yeah, you can see underneath it</p> <p>5 says, "Enclosed is final offer. Please have him</p> <p>6 sign it and send it."</p> <p>7 Q. And when was this final offer</p> <p>8 sent?</p> <p>9 A. I have no idea. I haven't seen</p> <p>10 it. Do we have one with his signature?</p> <p>11 MR. HARRIS: You answer the</p> <p>12 question. She'll ask the questions.</p> <p>13 A. I don't know. It says over here</p> <p>14 November 7th, 2019.</p> <p>15 Q. Do you see the date at the bottom</p> <p>16 of the email?</p> <p>17 A. I see November 7, 2019. I see</p> <p>18 November 8, 2019. I see November 8th, Friday,</p> <p>19 the 8th of November, 2019, so I would have to</p> <p>20 imagine it's around there.</p> <p>21 Q. So did Mr. Tawil send the final</p> <p>22 offer on November 7th, 2019?</p> <p>23 A. I guess. I don't know.</p> <p>24 MR. CASE: Counsel, are you asking</p> <p>25 the witness if he has personal knowledge as to</p>
<p>94</p> <p>1 connection with your subpoena?</p> <p>2 A. Yes, I believe so.</p> <p>3 MR. HARRIS: Counsel, I was given</p> <p>4 a bunch of documents. I sifted through them and</p> <p>5 I produced documents that were responsive to the</p> <p>6 subpoena, with the objections in my letter</p> <p>7 incorporating same.</p> <p>8 MS. TURNER: Understood.</p> <p>9 Q. Can you just describe what's going</p> <p>10 on in this email correspondence?</p> <p>11 A. Sure. Saul is asking me, "Please</p> <p>12 confirm no free time," which I've got to</p> <p>13 imagine, is there any free rent inside of the</p> <p>14 lease. Previously there's a message from the</p> <p>15 broker, Bob King, to Saul saying, "Saul," to</p> <p>16 which I'm cc'd, and DLee is cc'd. I don't know</p> <p>17 who DLee is. "Please prepare leases as per your</p> <p>18 term sheet and forward to Diana Lee (cc'd here).</p> <p>19 Please cc me as well. Many thanks, Bob."</p> <p>20 And then Saul emails me saying,</p> <p>21 "Please confirm no free time." That's what</p> <p>22 we're looking at.</p> <p>23 Q. Thank you.</p> <p>24 Would it be fair to say this is</p> <p>25 describing that back and forth agreeing to a</p>	<p>96</p> <p>1 whether or not the offer was sent on that date?</p> <p>2 I mean the signed document was sent on that</p> <p>3 date?</p> <p>4 MS. TURNER: Sorry, who is</p> <p>5 speaking?</p> <p>6 MR. CASE: It's Michael case.</p> <p>7 MS. TURNER: And what was your</p> <p>8 question? I'm sorry.</p> <p>9 MR. CASE: Are you asking him if</p> <p>10 he had personal knowledge of the offer sheet</p> <p>11 being sent that day?</p> <p>12 MS. TURNER: I'm just asking him</p> <p>13 if this is what the email says, that he</p> <p>14 produced.</p> <p>15 THE WITNESS: That's what the</p> <p>16 email says.</p> <p>17 MR. HARRIS: Let the attorneys</p> <p>18 speak.</p> <p>19 MS. TURNER: I don't know if</p> <p>20 there's a standing objection.</p> <p>21 MR. CASE: No, I'm just asking for</p> <p>22 clarification. I think he's answered the</p> <p>23 question.</p> <p>24 MS. TURNER: Okay.</p> <p>25 Q. Mr. Shamash, does this refresh</p>

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<p>97</p> <p>1 your recollection that a final term sheet was 2 sent on November 7th, 2019 to CCMS's broker? 3 A. No. 4 MR. HARRIS: Objection. 5 A. No. 6 Q. Do you have any reason to believe 7 this email isn't accurate? 8 A. No. 9 MR. MARGOLIS: What exhibit was 10 this? I know it's document 5, but what exhibit 11 is it? 12 THE TECHNICIAN: Counsel, this is 13 Exhibit U. 14 MR. MARGOLIS: E as in Edward? 15 THE TECHNICIAN: U as in umbrella. 16 MR. MARGOLIS: U as in umbrella. 17 Thank you. 18 MS. TURNER: John, you can take 19 this document down. 20 BY MS. TURNER: 21 Q. Mr. Shamash, would it be fair to 22 say sometime in early November Oxford exchanged 23 term sheets with CCMS for the sublease of the 24 premises? 25 A. Sure, yeah.</p>	<p>99</p> <p>1 screen. It is marked as Exhibit V, and I will 2 blow it up for you. 3 Q. Mr. Shamash, do you recognize this 4 document? 5 A. No. 6 Q. Did your attorney produce it in 7 response to this subpoena? 8 A. I don't know. 9 MR. HARRIS: Counsel, I did 10 produce it in response to the subpoena. 11 Q. Did you review -- Mr. Shamash, did 12 you review any documents before your attorney 13 produced them in response to the subpoena? 14 A. No. 15 Q. Can you please read for me the 16 bottom of this email dated November 8th, 2019 17 from Bob to Saul Tawil and yourself. 18 A. From Bob King to Saul Tawil and 19 myself: "Just a reminder that both you and CCM 20 want to move quickly, so please expedite this 21 lease. Have a good weekend. Sent from my 22 iPhone." 23 Q. Do you recall that CCMS was in a 24 hurry to finalize the sublease for the premises? 25 A. Not particularly, no.</p>
<p>98</p> <p>1 MR. HARRIS: Objection. Is 2 this -- 3 A. Am I sure of it? No. 4 MR. HARRIS: Answer to the best of 5 your memory. 6 A. To my memory, I don't know if we 7 exchanged term sheets. 8 Q. Did you eventually agree to a 9 sublease, though? 10 A. Oxford agreed to a sublease at one 11 point. 12 Q. And why didn't you, your attorney, 13 produce the attached term sheet? 14 A. I sent -- 15 MR. HARRIS: Counsel, I have to 16 review that. As to why -- my client can't 17 answer as to why his attorney did or did not do 18 one thing. 19 MS. TURNER: Okay. John, can you 20 pull up document 14. 21 THE TECHNICIAN: Stand by, 22 counsel. 23 (Exhibit V marked for 24 identification.) 25 THE TECHNICIAN: Document 14 is on</p>	<p>100</p> <p>1 MS. TURNER: John, if you could 2 pull up document 9. 3 THE TECHNICIAN: Stand by, 4 counsel. 5 (Exhibit W marked for 6 identification.) 7 THE TECHNICIAN: Document 9 is on 8 screen now. It is marked as Exhibit W. 9 Q. Mr. Shamash, do you recognize this 10 email? 11 A. No. 12 Q. What's the date on this email? 13 A. Monday the 18th of November, 2019. 14 Q. And who is this email from? 15 A. It's from Robert King. 16 Q. And who is it addressed to? 17 A. It's addressed to me and Saul. 18 Q. And can you please read the body 19 of the email. 20 A. "Nigel, did you make it over to 21 the 31st Street clinic? What are the next 22 steps? Please advise, Bob." 23 Q. What was Mr. King referring to 24 with respect to the 31st Street clinic? 25 A. They had a location on 31st</p>

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<p>101</p> <p>1 Street. They told me to go and have a look at</p> <p>2 it.</p> <p>3 Q. When you say "they," are you</p> <p>4 referring to CCMS?</p> <p>5 A. When I say "they," I mean Robert</p> <p>6 King speaking on behalf of CCMS.</p> <p>7 Q. And did you ever visit the 31st</p> <p>8 Street clinic?</p> <p>9 A. I went up in the elevator, opened</p> <p>10 the door, and went back down.</p> <p>11 Q. What did you observe at the 31st</p> <p>12 Street clinic?</p> <p>13 A. I saw a waiting area.</p> <p>14 Q. A waiting area for what?</p> <p>15 A. A waiting area for, I would guess,</p> <p>16 a clinic or a medical location. I don't know</p> <p>17 what was behind the door.</p> <p>18 Q. And did you visit the 31st Street</p> <p>19 clinic before or after this email?</p> <p>20 A. No idea.</p> <p>21 Q. Did you visit the 31st Street</p> <p>22 clinic sometime in November 2019?</p> <p>23 A. I visited it. I don't know when</p> <p>24 it was.</p> <p>25 Q. And what do you understand the</p>	<p>103</p> <p>1 A. I don't recall.</p> <p>2 MS. TURNER: John, if you could</p> <p>3 pull up the document, it's a CCMS document</p> <p>4 ending in 427.</p> <p>5 THE TECHNICIAN: Stand by,</p> <p>6 counsel.</p> <p>7 (Exhibit X marked for</p> <p>8 identification.)</p> <p>9 THE TECHNICIAN: That document is</p> <p>10 on screen now. It is marked as Exhibit X.</p> <p>11 MS. TURNER: John, if you could</p> <p>12 maybe slowly scroll through the document so</p> <p>13 Mr. Shamash can review. And I'll represent that</p> <p>14 this document was produced by CCMS in connection</p> <p>15 with the lawsuit.</p> <p>16 (Witness reviewing document.)</p> <p>17 THE WITNESS: Do you mind</p> <p>18 scrolling up, please. Up some more, up more.</p> <p>19 Stop. Okay, carry on.</p> <p>20 (Witness reviewing document.)</p> <p>21 Q. Mr. Shamash, do you recognize this</p> <p>22 document?</p> <p>23 A. No.</p> <p>24 Q. You don't recall any of the events</p> <p>25 described in this email?</p>
<p>102</p> <p>1 word "clinic" to mean?</p> <p>2 A. The word "clinic" is what they</p> <p>3 have on 31st Street. Their use of the word</p> <p>4 "clinic," although to be fair, it was in an</p> <p>5 email, probably just glanced upon by me, the use</p> <p>6 of the word "clinic" is that it would be</p> <p>7 something that people would go in -- what would</p> <p>8 be the definition of the word "clinic"?</p> <p>9 Definition of the word "clinic," somewhere you</p> <p>10 go in and you are studied by a clinician.</p> <p>11 Q. And I believe you said earlier</p> <p>12 that you thought CCMS intended to use the</p> <p>13 premises for ancillary counseling?</p> <p>14 A. Yes. 100 percent.</p> <p>15 Q. This email suggests that CCMS was</p> <p>16 already operating a clinic at 31st Street,</p> <p>17 correct?</p> <p>18 A. This email suggests that they had</p> <p>19 a location at 31st Street. What this email</p> <p>20 doesn't talk about is that they had a location</p> <p>21 in Clinton Hill, which we were told by the</p> <p>22 broker was going to be akin to what they were</p> <p>23 doing here.</p> <p>24 Q. Then why would Mr. King ask you to</p> <p>25 visit the 31st Street clinic?</p>	<p>104</p> <p>1 A. No.</p> <p>2 MS. TURNER: John, can you please</p> <p>3 go to the end of the document.</p> <p>4 Q. Mr. Shamash, when was this</p> <p>5 email --</p> <p>6 MR. HARRIS: Hold on, hold on.</p> <p>7 Let him read it, please. Sorry I cut you off.</p> <p>8 (Witness reviewing document.)</p> <p>9 A. Okay.</p> <p>10 Q. When was this email sent,</p> <p>11 Mr. Shamash?</p> <p>12 A. Tuesday, November 19th, 2019 at</p> <p>13 12:14 p.m.</p> <p>14 Q. And who sent it?</p> <p>15 A. It was sent from Robert King.</p> <p>16 Q. And who was it sent to?</p> <p>17 A. It was sent to Saul Tawil and</p> <p>18 Nigel Shamash.</p> <p>19 Q. And does reading this email</p> <p>20 refresh your recollection about any</p> <p>21 conversations or events that took place?</p> <p>22 A. No.</p> <p>23 Q. Mr. Shamash, can you please read</p> <p>24 the first four sentences.</p> <p>25 A. (As read): "After my conversation</p>

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<p>105</p> <p>1 on Sunday and yesterday with Saul, it appears</p> <p>2 that your position is that you never agreed to</p> <p>3 this use. Come on now, you are big boys and</p> <p>4 knew exactly what CCM does. The first thing any</p> <p>5 landlord does is research the tenant. And</p> <p>6 Nigel, I told you two months ago what they did.</p> <p>7 For my part, within an hour of receiving the</p> <p>8 assignment I went to the 31st Street and saw</p> <p>9 what I was dealing with."</p> <p>10 MR. HARRIS: That's all.</p> <p>11 Q. Is this 31st Street clinic the</p> <p>12 same clinic that the previous document was</p> <p>13 referring to?</p> <p>14 A. I imagine.</p> <p>15 Q. Do you know what Mr. King is</p> <p>16 referring to when he says "it appears that your</p> <p>17 position is that you never agreed to this use"?</p> <p>18 A. Yes.</p> <p>19 Q. What's he referring to?</p> <p>20 A. He's referring to my statement</p> <p>21 that I never agreed to this use, which is</p> <p>22 consistent with the conversation that I had with</p> <p>23 him immediately after the meeting.</p> <p>24 Q. I'm just going to break that down</p> <p>25 a little bit.</p>	<p>107</p> <p>1 A. My recollection was the use was</p> <p>2 office space with ancillary counseling services</p> <p>3 akin to their location in Clinton Hill.</p> <p>4 Q. Why is Mr. King referring to the</p> <p>5 31st Street clinic in his email then?</p> <p>6 MR. CASE: Object to form.</p> <p>7 A. I can't speak for him.</p> <p>8 Q. When Mr. King says, "Come on now,</p> <p>9 you are big boys and knew exactly what CCM</p> <p>10 does," what do you think he's referring to?</p> <p>11 MR. HARRIS: Objection to form.</p> <p>12 A. I think it sounds to me like he's</p> <p>13 trying to CYA with his customer.</p> <p>14 MS. TURNER: John, if you could</p> <p>15 just move up to the next portion of the email</p> <p>16 chain. Thank you.</p> <p>17 Q. Mr. Shamash, do you recognize this</p> <p>18 email?</p> <p>19 A. I do not.</p> <p>20 Q. Could you read the second</p> <p>21 sentence -- actually, let me back up.</p> <p>22 When was this email sent?</p> <p>23 MR. CASE: Are you asking him if</p> <p>24 he knows when it was sent or what does it say on</p> <p>25 the document?</p>
<p>106</p> <p>1 The conversation you had with who?</p> <p>2 A. With Mr. King.</p> <p>3 Q. After what meeting?</p> <p>4 A. The board meeting.</p> <p>5 Q. On January 14th, 2020?</p> <p>6 THE WITNESS: It was on January</p> <p>7 14th?</p> <p>8 MR. HARRIS: You don't know, you</p> <p>9 don't know.</p> <p>10 A. I don't know.</p> <p>11 Q. So this document does refresh your</p> <p>12 recollection as to the events --</p> <p>13 A. No.</p> <p>14 Q. But you now recall what Mr. King</p> <p>15 was referring to when he said, "it appears that</p> <p>16 your position is that you never agreed to this</p> <p>17 use"?</p> <p>18 A. This doesn't refresh my memory of</p> <p>19 that.</p> <p>20 Q. So you have an independent</p> <p>21 recollection of there being an issue with the</p> <p>22 use for the premises?</p> <p>23 A. Yes.</p> <p>24 Q. What's your recollection of the</p> <p>25 dispute over the use?</p>	<p>108</p> <p>1 Q. What does this document say the</p> <p>2 date it was sent was?</p> <p>3 A. The document says that it was sent</p> <p>4 on November 19th, 2019 at 1:14 p.m.</p> <p>5 Q. And based on this document, who</p> <p>6 sent this email?</p> <p>7 A. It was sent by Saul Tawil.</p> <p>8 Q. Do you have any reason to believe</p> <p>9 that this email isn't accurate?</p> <p>10 A. It exists, yeah; I'm looking at</p> <p>11 it.</p> <p>12 MR. HARRIS: Objection to form.</p> <p>13 Q. And is there a reason that you</p> <p>14 didn't produce this email chain in response to</p> <p>15 the subpoena?</p> <p>16 A. No, there's no reason.</p> <p>17 Q. Why didn't you produce this email</p> <p>18 chain in response to the subpoena?</p> <p>19 A. I did a search on my computer; it</p> <p>20 didn't come up.</p> <p>21 Q. Is it possible that there are</p> <p>22 additional emails that did not come up when you</p> <p>23 searched for documents responsive to this?</p> <p>24 A. Well, we're looking at an email</p> <p>25 that didn't come up.</p>

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<p>109</p> <p>1 Q. So you missed documents when you</p> <p>2 searched for correspondence responsive to this</p> <p>3 subpoena?</p> <p>4 MR. HARRIS: Objection, he's not</p> <p>5 saying he missed documents. Objection to form.</p> <p>6 Q. Did you miss this document?</p> <p>7 A. I'm not saying --</p> <p>8 MR. CASE: Object to form.</p> <p>9 Q. Mr. Shamash, can you read this</p> <p>10 email for me, please?</p> <p>11 A. Sure. From Saul: "Original offer</p> <p>12 sheet, has no use with below, including</p> <p>13 alcoholism and substance abuse. The space they</p> <p>14 are renting has a separate elevator. We can</p> <p>15 offer them the freight elevator axis," which I</p> <p>16 guess he means access, "only. And use is mental</p> <p>17 health. And maybe it can pass, and maybe put in</p> <p>18 lease under one of the clauses, including</p> <p>19 alcoholism and substance abuse, but not under</p> <p>20 the main heading of use mental health. I will</p> <p>21 review with my attorney."</p> <p>22 Q. Do you know what Mr. Tawil is</p> <p>23 referring to here?</p> <p>24 A. No, not really. His English is</p> <p>25 not the best.</p>	<p>111</p> <p>1 11 floors ever --</p> <p>2 A. I have no idea. I don't work in</p> <p>3 the building.</p> <p>4 Q. At the bottom of this page ending</p> <p>5 in 428, the statement "and use is mental</p> <p>6 health," what did you understand that to mean?</p> <p>7 A. I don't understand it to mean</p> <p>8 anything. His English is not the best.</p> <p>9 Q. And the top sentence on the next</p> <p>10 page ending in 429, "and maybe it can pass,"</p> <p>11 what do you think Mr. Tawil is referring to</p> <p>12 there?</p> <p>13 A. I believe he's trying to get this</p> <p>14 approved by the board so he can collect rent.</p> <p>15 Q. And why do you believe that?</p> <p>16 A. Because he's here to collect rent.</p> <p>17 Q. So he has an interest in</p> <p>18 subleasing the premises to anyone?</p> <p>19 A. Absolutely.</p> <p>20 Q. And what was your interest as far</p> <p>21 as being the broker?</p> <p>22 A. Well, no, I'm not the broker.</p> <p>23 Q. You weren't the broker in the</p> <p>24 sublease negotiation with CCMS?</p> <p>25 A. No, I was not.</p>
<p>110</p> <p>1 Q. The phrase in parentheses</p> <p>2 "including alcoholism and substance abuse," is</p> <p>3 that referring to the type of counseling that</p> <p>4 CCMS could provide at the premises?</p> <p>5 A. I have no idea. You're referring</p> <p>6 to Saul's email and his later conversation with</p> <p>7 the attorney. I wasn't party to it.</p> <p>8 Q. Understood.</p> <p>9 Do you know why Mr. Tawil would</p> <p>10 offer that CCMS could use the freight elevator</p> <p>11 only?</p> <p>12 A. I do not. And did he just use the</p> <p>13 word "only"? "We can offer them freight</p> <p>14 elevator -- has a separate elevator. We can</p> <p>15 offer them freight axis only." That's what he</p> <p>16 wrote. Maybe it's him trying to make the deal</p> <p>17 happen so he can collect some rent. That would</p> <p>18 be my guess.</p> <p>19 Q. Do any of the current occupants of</p> <p>20 the building use the freight elevator only?</p> <p>21 A. I actually think Hand Held Films.</p> <p>22 Q. And is that because they have</p> <p>23 large equipment?</p> <p>24 A. I don't know why, to be honest.</p> <p>25 Q. Understood. But none of the other</p>	<p>112</p> <p>1 Q. Did Oxford use a broker?</p> <p>2 A. Not that I know of.</p> <p>3 MS. TURNER: John, can you move up</p> <p>4 to the next section on this email.</p> <p>5 Q. Do you recognize this email?</p> <p>6 A. No.</p> <p>7 Q. And again, you didn't produce this</p> <p>8 email?</p> <p>9 A. I don't know.</p> <p>10 MR. HARRIS: Counsel, I don't</p> <p>11 recognize this email as being produced.</p> <p>12 MS. TURNER: Thank you.</p> <p>13 Q. Mr. Shamash, based on this</p> <p>14 document, what was the date of this email?</p> <p>15 A. November 19th, 2019.</p> <p>16 Q. Do you have any reason to believe</p> <p>17 this email isn't accurate?</p> <p>18 A. No.</p> <p>19 Q. Could you please read the third</p> <p>20 and fourth sentence of the email.</p> <p>21 A. (As read): "I hope Nigel actually</p> <p>22 does go to see the 31st Street facility. It's</p> <p>23 100 percent agreeable. No one would object.</p> <p>24 But I can guarantee you they are pursuing</p> <p>25 another space and I doubt they are going to</p>

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<p>113</p> <p>1 agree to be second" -- I can't read on, can't</p> <p>2 see it -- no, I can't see it. There's a camera</p> <p>3 on top of it.</p> <p>4 MR. HARRIS: The Zoom caption of</p> <p>5 the other people. There we go.</p> <p>6 A. "I can guarantee you they are</p> <p>7 pursuing another space and I doubt they are</p> <p>8 going to agree to be second class citizens...</p> <p>9 using the freight elevator only."</p> <p>10 Q. Thank you.</p> <p>11 Do you recall what Mr. King is</p> <p>12 referring to here?</p> <p>13 A. No.</p> <p>14 Q. About visiting the 31st Street</p> <p>15 facility?</p> <p>16 A. No.</p> <p>17 Q. Do you recall if you had already</p> <p>18 visited the facility at this time?</p> <p>19 A. No.</p> <p>20 MS. TURNER: John, can you move up</p> <p>21 to the next part of the email.</p> <p>22 Q. Do you recognize this email?</p> <p>23 A. No.</p> <p>24 Q. Based on the document, when was</p> <p>25 this sent?</p>	<p>115</p> <p>1 regular elevator at this point.</p> <p>2 Q. Would it be strange for Mr. Tawil</p> <p>3 to suggest that CCMS clients use the freight</p> <p>4 elevator for the eighth floor?</p> <p>5 MR. HARRIS: Objection to form.</p> <p>6 A. I don't think it's particularly</p> <p>7 strange, no.</p> <p>8 Q. Why do you think he would suggest</p> <p>9 they use the freight elevator?</p> <p>10 A. Because he wants to get a tenant</p> <p>11 inside of the space. So if he was seeing an</p> <p>12 overflow of users or something like that, then</p> <p>13 he would say use the freight elevator. It's</p> <p>14 overflow, just like Hand Held Films does.</p> <p>15 Q. What do you mean by overflow of</p> <p>16 users?</p> <p>17 A. Meaning if there was people coming</p> <p>18 inside over there and there's going to be</p> <p>19 traffic, the freight elevator is another</p> <p>20 entrance with another elevator.</p> <p>21 Q. Has Mr. Tawil ever suggested</p> <p>22 before that other subtenants use the freight</p> <p>23 elevator?</p> <p>24 A. I have no idea.</p> <p>25 MS. TURNER: Just one second on my</p>
<p>114</p> <p>1 A. November 19th at 2:53.</p> <p>2 Q. Who was it sent by?</p> <p>3 A. It was sent by Saul.</p> <p>4 Q. Can you read the last two</p> <p>5 sentences of the email, please.</p> <p>6 A. "Just finished new freight</p> <p>7 elevator entrance for their clients for eighth</p> <p>8 floor."</p> <p>9 Q. Do you know what Mr. Tawil was</p> <p>10 referring to?</p> <p>11 A. I have no idea.</p> <p>12 Q. Had the freight elevator recently</p> <p>13 been renovated at the building?</p> <p>14 A. It's an automated freight.</p> <p>15 Q. I'm sorry, you didn't answer my</p> <p>16 question. Had the freight elevator recently</p> <p>17 been renovated?</p> <p>18 A. It was upgraded to automated, but</p> <p>19 I don't know when.</p> <p>20 Q. You don't know if it was upgraded</p> <p>21 around this time?</p> <p>22 A. No. I don't think around this</p> <p>23 time, but it's been updated to automated. You</p> <p>24 don't need a superintendent to move it with a</p> <p>25 manual, push the buttons. It's just like a</p>	<p>116</p> <p>1 end.</p> <p>2 THE WITNESS: While we wait, can I</p> <p>3 get another bathroom break?</p> <p>4 MR. HARRIS: Is that okay?</p> <p>5 MS. TURNER: I was just going to</p> <p>6 say, this would actually be a good stopping</p> <p>7 point for me for lunch, if everyone is in</p> <p>8 agreement.</p> <p>9 MR. HARRIS: That's fine.</p> <p>10 THE TECHNICIAN: How long do we</p> <p>11 want to break for?</p> <p>12 (Comments off the record.)</p> <p>13 THE VIDEOGRAPHER: We're going off</p> <p>14 the record, the time is 13:14.</p> <p>15 (Luncheon recess taken.)</p> <p>16 THE VIDEOGRAPHER: We're back on</p> <p>17 the record; the time is 13:47.</p> <p>18 BY MS. TURNER:</p> <p>19 Q. Mr. Shamash, I want to turn back</p> <p>20 to the document we were looking at before we</p> <p>21 took a lunch break.</p> <p>22 MS. TURNER: John, if you could</p> <p>23 pull up --</p> <p>24 THE TECHNICIAN: Counsel, Exhibit</p> <p>25 X is back on screen.</p>

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<p>117</p> <p>1 MS. TURNER: Thank you. Could you</p> <p>2 just scroll down to the Bates number so I can</p> <p>3 confirm it's the right -- yes. Awesome.</p> <p>4 If you can go to the top page</p> <p>5 please, John. Perfect, right there.</p> <p>6 BY MS. TURNER:</p> <p>7 Q. Mr. Shamash, do you want to take a</p> <p>8 second to review this?</p> <p>9 A. Um-hum.</p> <p>10 (Witness reviewing document.)</p> <p>11 Q. Mr. Shamash, do you recognize this</p> <p>12 email?</p> <p>13 A. No.</p> <p>14 Q. Based on the document, what's the</p> <p>15 date of the email?</p> <p>16 A. November 19th, 2019.</p> <p>17 Q. And who's the email from?</p> <p>18 A. It's from Robert King to Saul with</p> <p>19 me cc'd. Just for a note, on the previous email</p> <p>20 I wasn't cc'd.</p> <p>21 Q. Understood.</p> <p>22 Mr. Shamash, could you read the</p> <p>23 fourth sentence down.</p> <p>24 A. Fourth down, starting on what</p> <p>25 word?</p>	<p>119</p> <p>1 the witness' answer was.</p> <p>2 COURT REPORTER: I'm sorry, I</p> <p>3 think I heard what you heard as well.</p> <p>4 (Record read.)</p> <p>5 MR. HARRIS: You want to restate</p> <p>6 it.</p> <p>7 A. There weren't five votes, that</p> <p>8 doesn't really match.</p> <p>9 Q. What do you mean it doesn't match?</p> <p>10 A. Well, if I remember correctly from</p> <p>11 the previous conversation, there are five people</p> <p>12 at the board meeting. To say that I had five</p> <p>13 votes locked up, two plus three, I'm not on the</p> <p>14 board. So, I don't know what it's referring to,</p> <p>15 but he needed approval from the board.</p> <p>16 Q. Is it possible the two votes he's</p> <p>17 referring to would be votes for the seventh and</p> <p>18 eighth floor?</p> <p>19 A. We're not on the board.</p> <p>20 Q. And you have no idea what he's</p> <p>21 referring to --</p> <p>22 A. I don't.</p> <p>23 Q. The plus another three; you have</p> <p>24 no idea what that's referring to?</p> <p>25 A. I have no idea. He's talking</p>
<p>118</p> <p>1 Q. "In fact, back in."</p> <p>2 A. (As read): "In fact, back in</p> <p>3 September when we first submitted our offer, I</p> <p>4 was concerned about board approval and Nigel and</p> <p>5 I had a conversation... he assured me you had</p> <p>6 five votes locked up... (your two plus another</p> <p>7 three) and that you only needed one more... the</p> <p>8 president of the board."</p> <p>9 Q. Thank you. Do you know what</p> <p>10 Mr. King is referring to there?</p> <p>11 A. No.</p> <p>12 Q. Did you have a conversation with</p> <p>13 Mr. King about board approval?</p> <p>14 A. Not that I recall. But if I did,</p> <p>15 there weren't five votes, so it doesn't really</p> <p>16 match the makeup of the board, so...</p> <p>17 Q. What do you mean it doesn't really</p> <p>18 matter?</p> <p>19 A. Well, you explained --</p> <p>20 MR. HARRIS: Objection, he said</p> <p>21 say matter. He said match the makeup of the</p> <p>22 board.</p> <p>23 MS. TURNER: I'm sorry, I misheard</p> <p>24 him.</p> <p>25 Nancy, could you read back what</p>	<p>120</p> <p>1 about the board.</p> <p>2 Q. And who was the president of the</p> <p>3 board during this time, at the time of this</p> <p>4 email?</p> <p>5 A. I don't know.</p> <p>6 Q. I'm sorry?</p> <p>7 A. I don't know.</p> <p>8 Q. You don't know who the president</p> <p>9 of the board is?</p> <p>10 A. I can't tell you who it is now or</p> <p>11 who it was then.</p> <p>12 Q. So Mr. King is emailing you about</p> <p>13 a conversation that you don't recollect,</p> <p>14 referencing votes on a board that you say don't</p> <p>15 match?</p> <p>16 A. No. Certainly wouldn't imply that</p> <p>17 the board was locked up; otherwise they wouldn't</p> <p>18 have had the meeting.</p> <p>19 (Reporter clarification.)</p> <p>20 A. -- was locked up. Otherwise there</p> <p>21 wouldn't have been the need for a meeting. Or I</p> <p>22 guess there would have, but no, if that's what</p> <p>23 you're talking about.</p> <p>24 Q. You've never had conversations</p> <p>25 with board members about sublease approvals?</p>

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<p>121</p> <p>1 A. No.</p> <p>2 MR. HARRIS: Just one second.</p> <p>3 Just wait until she finishes her question, okay.</p> <p>4 THE WITNESS: Carry on.</p> <p>5 Q. Where would Mr. King get the idea</p> <p>6 that you had a certain number of votes locked</p> <p>7 up?</p> <p>8 MR. CASE: Object to form.</p> <p>9 A. I can't speak for him.</p> <p>10 Q. Just give me one second,</p> <p>11 Mr. Shamash.</p> <p>12 Why would Mr. King be concerned</p> <p>13 about board approval?</p> <p>14 A. Because you need board approval to</p> <p>15 get them inside of the building. He knew that.</p> <p>16 Q. I asked you to read the fourth</p> <p>17 sentence. Can you read the sentence immediately</p> <p>18 following it, starting with "He would want."</p> <p>19 A. (As read): "He would want to</p> <p>20 visit their location to see fie himself what CCM</p> <p>21 did and unless he saw something terrible, we</p> <p>22 would not get the votes. Now this?"</p> <p>23 Q. What do you think Mr. King is</p> <p>24 referring to there?</p> <p>25 MR. CASE: Object to form.</p>	<p>123</p> <p>1 before?</p> <p>2 MS. TURNER: Sorry, I think there</p> <p>3 was some background noise there.</p> <p>4 THE WITNESS: She said two months</p> <p>5 after.</p> <p>6 MR. HARRIS: I think she's wrong.</p> <p>7 MS. TURNER: Thank you, John. You</p> <p>8 can take that down.</p> <p>9 John, can you pull up the document</p> <p>10 starting with CCMS and ending in 497.</p> <p>11 THE TECHNICIAN: Stand by,</p> <p>12 counsel. Counsel, you said 497?</p> <p>13 MS. TURNER: Yes, please.</p> <p>14 THE TECHNICIAN: I do not believe</p> <p>15 I have that. Let me double-check the</p> <p>16 repository.</p> <p>17 MS. TURNER: I believe I added it</p> <p>18 on the break, so you might have to refresh.</p> <p>19 THE TECHNICIAN: Gotcha. One</p> <p>20 moment, please.</p> <p>21 MR. MARGOLIS: Tara, did you add</p> <p>22 anything else, because I downloaded the share</p> <p>23 file?</p> <p>24 MS. TURNER: Yes, I may have added</p> <p>25 one or two more documents.</p>
<p>122</p> <p>1 A. It's been a few years. I don't</p> <p>2 know, but it sounds to me like he's trying to</p> <p>3 cover himself again.</p> <p>4 Q. How would he be trying to cover</p> <p>5 himself?</p> <p>6 MR. CASE: Object to form.</p> <p>7 A. He wants to imply that we knew his</p> <p>8 use, even though it was contrary to</p> <p>9 conversations previous.</p> <p>10 Q. So you remember conversations</p> <p>11 about the use of the premises, but you don't</p> <p>12 remember any of these emails or the fact that</p> <p>13 you told Mr. King you had five votes locked up?</p> <p>14 MR. HARRIS: Objection to form.</p> <p>15 MR. CASE: Object to form.</p> <p>16 A. I remember the conversations of</p> <p>17 the use because I have a recording of one of the</p> <p>18 conversations.</p> <p>19 Q. And was that conversation on</p> <p>20 November 19th, 2019?</p> <p>21 A. I don't remember the date of it.</p> <p>22 It was immediately after the board meeting.</p> <p>23 Q. So nearly two months after this</p> <p>24 email?</p> <p>25 A. I guess so. Two months after or</p>	<p>124</p> <p>1 I'm sorry, about that, Barry. My</p> <p>2 understanding was it would update automatically.</p> <p>3 MR. MARGOLIS: Yeah, it doesn't</p> <p>4 update when you download from it, so I'm trying</p> <p>5 to just stay current with you, which is fine. I</p> <p>6 know you said you'll give us the documents after</p> <p>7 the fact, but I just want to be able to -- I'm</p> <p>8 just making sure I have them, that's all.</p> <p>9 MS. TURNER: Got it.</p> <p>10 MR. MARGOLIS: Looks like COOP 324</p> <p>11 and CCMS 497 is what you added.</p> <p>12 MS. TURNER: That sounds right.</p> <p>13 MR. CASE: Barry, did you say COOP</p> <p>14 324 and CCMS 497?</p> <p>15 MR. MARGOLIS: That's what it</p> <p>16 looks like to me.</p> <p>17 MR. HARRIS: We see all the pages,</p> <p>18 or we're not doing that document?</p> <p>19 MS. TURNER: Yes, we are. I just</p> <p>20 wanted Michael and Barry to be able to locate</p> <p>21 the document.</p> <p>22 BY MS. TURNER:</p> <p>23 Q. Mr. Shamash, can you please take a</p> <p>24 minute and review this document.</p> <p>25 MR. HARRIS: Could we see the</p>

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<p>1 other three pages, please. This is 1 of 4. 2 Slow down a little, I'm sorry. 3 Thank you. 4 Next page. 5 MS. TURNER: When you finish 6 Mr. Shamash, John, can you please move to page 7 2. 8 MR. HARRIS: There's another page. 9 MS. TURNER: It's just the tail 10 end of that. 11 MR. HARRIS: Okay. 12 MR. MARGOLIS: Are we marking this 13 as an exhibit? 14 MS. TURNER: Yes, please. 15 THE TECHNICIAN: This will be 16 marked as Exhibit Y. 17 (Exhibit Y marked for 18 identification.) 19 BY MS. TURNER: 20 Q. Mr. Shamash, I'll represent to you 21 this is an email produced by CCMS in this 22 action. 23 Before we get into the substance 24 of the document, Mr. Shamash, is there a reason 25 you didn't produce this document?</p>	<p>125</p> <p>1 email directs CCMNYC, it is okay with removing 2 the substance abuse language from" -- and then 3 it gets cut off from the camera, "use. It turns 4 out this is a satellite program currently only 5 available in Brooklyn. They will not provide 6 this treatment at the Manhattan location. I 7 hope this resolves the matter." 8 Q. What did you understand that email 9 to mean? 10 MR. HARRIS: Objection to form. 11 You can answer. 12 A. I understood it to mean that the 13 location on 31st Street was not a continuation 14 of their space on 27th Street. 15 Q. Does this email reference the 31st 16 Street location? 17 A. It doesn't. It references -- it's 18 a satellite program of their location in 19 Brooklyn, and it will not provide this treatment 20 at their Manhattan location. 21 Q. Mr. Shamash, the first email 22 states, "CMNYC is okay with removing the 23 substance abuse language from the use." 24 Do you understand that to be the 25 satellite program that provides substance abuse</p> <p>127</p>
<p>1 A. You can see from the page, I'm not 2 a party to a lot of these. I don't think I'm a 3 party to all of it. 4 Q. Understood, but is there a reason 5 you didn't produce the duplicates of the 6 documents where you did respond? 7 A. I gave you what I had. 8 MR. HARRIS: Counsel, he gave me 9 what he has, and I gave you what's responsive to 10 the subpoena. 11 MS. TURNER: Thank you. 12 Q. Mr. Shamash, do you recognize this 13 portion of the email in the middle of the page 14 starting with November 19th at 3:44 p.m.? 15 A. Do I recognize the part where he 16 says it's going to be a satellite program 17 similar to the one in Brooklyn, no, I don't 18 recognize it. 19 Q. So, do you recognize this email? 20 A. No. 21 Q. Who is this email from? 22 A. This email is from Robert King to 23 me and Saul. 24 Q. And can you please read the email. 25 A. Yes. (As read): "You win. The</p>	<p>126</p> <p>1 counseling? 2 MR. HARRIS: Objection to form. 3 You can answer. 4 A. I don't actually remember what it 5 references exactly because it's been a while, 6 but if I was to read this now, I'd understand it 7 to say that there wasn't substance abuse 8 counseling in the space and the use of the space 9 is akin to that location in Brooklyn. 10 Q. Where in this email does it say 11 that the use of the space was akin to the space 12 in Brooklyn? 13 A. "It turns out thus is a satellite 14 program currently only available in Brooklyn. 15 They will not provide this treatment at their 16 Manhattan location." That's where it says it. 17 Q. Mr. Shamash, is it possible that 18 Mr. King is referring to the substance abuse 19 counseling as being the satellite program only 20 available in Brooklyn? 21 A. Possible. 22 Q. Earlier you stated that Mr. Brooks 23 at the January 14th, 2020 interview insisted 24 that he would be conducting substance abuse 25 counseling at the premises, correct?</p> <p>128</p>

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<p>129</p> <p>1 A. At the meeting, Mr. Brooks?</p> <p>2 Q. Yes.</p> <p>3 A. Yes, it was immediate.</p> <p>4 Q. However, do you see in this email</p> <p>5 that Mr. King is representing CCMS has agreed to</p> <p>6 remove any substance abuse language from the use</p> <p>7 of the premises?</p> <p>8 A. Yes.</p> <p>9 Q. So why would Mr. Brooks then</p> <p>10 represent at the board meeting that he was</p> <p>11 conducting substance abuse counseling?</p> <p>12 A. I don't know why. Maybe because</p> <p>13 he was and we were told otherwise.</p> <p>14 MS. TURNER: John, could you move</p> <p>15 up to the next email?</p> <p>16 Q. Do you recognize this email,</p> <p>17 Mr. Shamash?</p> <p>18 A. No.</p> <p>19 Q. What's the date of this email</p> <p>20 based on the document?</p> <p>21 A. November 19th, 2019.</p> <p>22 Q. And who is it from?</p> <p>23 A. It's from me to Bob King, the</p> <p>24 broker, cc'ing Saul Tawil.</p> <p>25 Q. And can you read the body of this</p>	<p>131</p> <p>1 for the premises?</p> <p>2 A. I don't remember.</p> <p>3 Q. Did Mr. Brooks ever email you</p> <p>4 personally describing what the use would be?</p> <p>5 A. I never once spoke or communicated</p> <p>6 with Mr. Brooks, to the best of my recollection.</p> <p>7 Q. Did Mr. King, as his email stated,</p> <p>8 pass along that it would be an out-patient</p> <p>9 clinic?</p> <p>10 A. I don't believe so, no.</p> <p>11 Q. Were you aware that CCMS would</p> <p>12 provide services for children at the premises?</p> <p>13 MR. HARRIS: Objection to form.</p> <p>14 You can answer.</p> <p>15 A. I don't think it really mattered</p> <p>16 because we were looking at predominantly office</p> <p>17 space. Children don't need narcotics</p> <p>18 counseling, as far as I can tell.</p> <p>19 MS. TURNER: Thank you, John, I</p> <p>20 think we're finished with this document.</p> <p>21 John, can you pull up document 8.</p> <p>22 THE TECHNICIAN: Stand by,</p> <p>23 counsel.</p> <p>24 (Exhibit Z marked for</p> <p>25 identification.)</p>
<p>130</p> <p>1 email?</p> <p>2 A. "Please detail precisely what they</p> <p>3 are doing in the space for the board. Thanks."</p> <p>4 Q. Why did you ask Mr. King --</p> <p>5 actually, strike that.</p> <p>6 The "they" in this sentence, who</p> <p>7 are you referring to?</p> <p>8 MR. HARRIS: Objection to form.</p> <p>9 A. CCMS.</p> <p>10 Q. Why did you ask Mr. King to detail</p> <p>11 precisely what they're doing in the space?</p> <p>12 A. Because if it wasn't an</p> <p>13 ancillary -- if it was not to dummy up space,</p> <p>14 you wouldn't get approved by the building.</p> <p>15 In addition, narcotics and</p> <p>16 substance abuse, you've to know what you're</p> <p>17 setting up a meeting for.</p> <p>18 MS. TURNER: John, can you move up</p> <p>19 to the next part of the email. And you can</p> <p>20 actually do the next two together.</p> <p>21 Q. If you want to take a second to</p> <p>22 review, Mr. Shamash.</p> <p>23 A. I reviewed it.</p> <p>24 Q. Did anyone ever respond to you</p> <p>25 with the description of what the use would be</p>	<p>132</p> <p>1 THE TECHNICIAN: Document 8 is on</p> <p>2 screen, marked as Exhibit Z.</p> <p>3 BY MS. TURNER:</p> <p>4 Q. Mr. Shamash, do you recognize this</p> <p>5 document?</p> <p>6 A. I do not.</p> <p>7 Q. Do you know if you produced it?</p> <p>8 A. I do not.</p> <p>9 Q. I'll represent to you that your</p> <p>10 attorney produced this to us as responsive to</p> <p>11 the subpoena.</p> <p>12 Do you know who the email is from?</p> <p>13 A. It's from Robert King.</p> <p>14 Q. On what date?</p> <p>15 A. Monday the 25th of November, 2019.</p> <p>16 Q. And who's it addressed to?</p> <p>17 A. Saul and myself.</p> <p>18 Q. And can you just read the body of</p> <p>19 of the email.</p> <p>20 A. "Good morning. Emory Brooks has</p> <p>21 instructed his attorney Diana Lee to contact</p> <p>22 your attorney, Etan Harris, with her remaining</p> <p>23 lease comments. We hope Etan will help expedite</p> <p>24 this. Very best, Bob."</p> <p>25 Q. Do you know what Mr. King was</p>

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<p>133</p> <p>1 referring to about expediting the lease?</p> <p>2 A. No.</p> <p>3 Q. You didn't understand that CCMS</p> <p>4 was in a hurry to finalize the lease?</p> <p>5 MR. HARRIS: Objection to form.</p> <p>6 A. No. There's a lot of emails with</p> <p>7 hurry up; he wants to collect his commission.</p> <p>8 Q. And do you know if Mr. Brooks'</p> <p>9 attorney, Diana Lee, contacted your attorney?</p> <p>10 A. I don't even remember who Diana</p> <p>11 is.</p> <p>12 Q. Understood.</p> <p>13 MS. TURNER: John, you can take</p> <p>14 that document down.</p> <p>15 John, could you pull up the</p> <p>16 document beginning in CCMS, ending in 201.</p> <p>17 THE TECHNICIAN: Stand by counsel.</p> <p>18 (Exhibit AA marked for</p> <p>19 identification.)</p> <p>20 THE TECHNICIAN: That document is</p> <p>21 on screen now marked as Exhibit AA.</p> <p>22 MS. TURNER: Thank you.</p> <p>23 MR. MARGOLIS: What was the</p> <p>24 document number on this again? Oh, this is CCMS</p> <p>25 201. Okay, thank you.</p>	<p>135</p> <p>1 MS. TURNER: Sure. It's</p> <p>2 CCMS00002 -- hold on.</p> <p>3 THE TECHNICIAN: Counsel, the page</p> <p>4 presently being displayed is ending in 208.</p> <p>5 MS. TURNER: Thank you.</p> <p>6 MR. MARGOLIS: Thank you.</p> <p>7 MS. TURNER: Poor eyesight and the</p> <p>8 dyslexia is not doing me any favors.</p> <p>9 Q. Mr. Shamash, did your attorney</p> <p>10 ever forward you this email?</p> <p>11 A. I don't know.</p> <p>12 Q. What's the date of this email?</p> <p>13 A. November 15, 2019, 11:24 a.m.</p> <p>14 Q. And is this email from your</p> <p>15 attorney?</p> <p>16 A. It's from my attorney.</p> <p>17 Q. Etan Harris. And can you read the</p> <p>18 body of the email starting with "Can we."</p> <p>19 A. "Can we limit the use language to:</p> <p>20 Tenant shall use and occupy demised premises for</p> <p>21 general offices, executive and administrative</p> <p>22 offices and for tenant's counseling programs,</p> <p>23 including but not limited to mental health</p> <p>24 counseling, all of the foregoing in connection</p> <p>25 with and in furtherance of tenant's purposes and</p>
<p>134</p> <p>1 MS. TURNER: Yes.</p> <p>2 MR. HARRIS: Give us a minute so</p> <p>3 he can review it. Thank you.</p> <p>4 (Witness reviewing document.)</p> <p>5 MS. TURNER: We're only going to</p> <p>6 be looking at a limited portion of this</p> <p>7 document.</p> <p>8 MR. HARRIS: I just want to review</p> <p>9 the whole document, if that's okay.</p> <p>10 (Witness reviewing document.)</p> <p>11 MS. TURNER: This is actually the</p> <p>12 page I wanted to discuss. I don't have anything</p> <p>13 for the remainder of the document.</p> <p>14 MR. HARRIS: Okay.</p> <p>15 MS. TURNER: If you'd like to</p> <p>16 start here.</p> <p>17 MR. HARRIS: You can go ahead.</p> <p>18 MS. TURNER: John, can you move</p> <p>19 slightly up so we can see the date.</p> <p>20 BY MS. TURNER:</p> <p>21 Q. Mr. Shamash, do you recognize this</p> <p>22 document?</p> <p>23 A. No.</p> <p>24 MR. MARGOLIS: Can you identify</p> <p>25 the page by Bates stamp for the record, please.</p>	<p>136</p> <p>1 activities."</p> <p>2 Q. What do you understand mental</p> <p>3 health counseling to be?</p> <p>4 MR. HARRIS: Objection to form.</p> <p>5 You can answer, if you know.</p> <p>6 A. I hesitate to even venture a</p> <p>7 guess. I guess I haven't been through any</p> <p>8 personally.</p> <p>9 Q. But you understand it to be</p> <p>10 clinic, a clinic providing services to</p> <p>11 patients --</p> <p>12 A. No.</p> <p>13 MR. HARRIS: Objection to form.</p> <p>14 And you're asking him to opine as to what his</p> <p>15 counsel was saying? He's not an author or</p> <p>16 contributor to the document.</p> <p>17 MS. TURNER: I'm asking him what</p> <p>18 he understands mental health counseling to be.</p> <p>19 MR. HARRIS: Do you want to</p> <p>20 rephrase your question?</p> <p>21 Q. Do you think mental health</p> <p>22 counseling would include providing services,</p> <p>23 mental health services, to patients?</p> <p>24 A. Yeah, sure, okay. I'll accept</p> <p>25 that.</p>

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<p>137</p> <p>1 Q. Does this sentence anywhere</p> <p>2 describe ancillary clinic or ancillary</p> <p>3 counseling?</p> <p>4 MR. HARRIS: Objection to form.</p> <p>5 You can answer.</p> <p>6 A. No.</p> <p>7 MS. TURNER: John, can you move to</p> <p>8 the next, one page up, ending in 207.</p> <p>9 Q. Mr. Shamash, do you recognize this</p> <p>10 document?</p> <p>11 A. No.</p> <p>12 Q. Did your attorney ever forward it</p> <p>13 to you?</p> <p>14 A. I have no idea.</p> <p>15 Q. Can you just please read the first</p> <p>16 sentence of the email.</p> <p>17 A. "The below use clause is</p> <p>18 acceptable as our client has agreed not to run</p> <p>19 any substance abuse counseling service at the</p> <p>20 site. When can we expect a redraft of the lease</p> <p>21 in response to our comments sent to you on</p> <p>22 November 15th, which I am reattaching? Our</p> <p>23 client would like to take occupancy as soon as</p> <p>24 possible."</p> <p>25 Q. So, Mr. Shamash, yet again CCMS is</p>	<p>139</p> <p>1 MS. TURNER: Yes.</p> <p>2 MR. MARGOLIS: Okay, thank you.</p> <p>3 Q. Mr. Shamash, have you had a chance</p> <p>4 to review this document?</p> <p>5 A. No. Review, yeah.</p> <p>6 MR. HARRIS: Can you zoom in a</p> <p>7 little bit? It's pretty small.</p> <p>8 Q. Mr. Shamash, do you recognize this</p> <p>9 document?</p> <p>10 A. No.</p> <p>11 Q. Do you know if you produced it?</p> <p>12 A. No.</p> <p>13 Q. I'm going to represent to you that</p> <p>14 your attorney did produce this document in</p> <p>15 response to your subpoena.</p> <p>16 Looking in the middle of the page,</p> <p>17 what's the date of this email?</p> <p>18 A. November 26th, 2019.</p> <p>19 Q. And who's the email from?</p> <p>20 A. It's from Robert King.</p> <p>21 Q. Can you just quickly read the</p> <p>22 email body for me?</p> <p>23 A. "Gentleman, I do hope the</p> <p>24 attorneys are talking. CCM needs to move this</p> <p>25 along."</p>
<p>138</p> <p>1 representing that they're not going to run any</p> <p>2 substance abuse counseling --</p> <p>3 A. Yes.</p> <p>4 Q. -- at the premises?</p> <p>5 MR. HARRIS: Objection to form.</p> <p>6 Let her finish her question.</p> <p>7 Sorry, can you repeat your</p> <p>8 question again.</p> <p>9 Q. Based on this document, CCMS is</p> <p>10 yet again representing that they're not going to</p> <p>11 run any substance abuse counseling at the</p> <p>12 premises; is that correct?</p> <p>13 MR. HARRIS: Objection to form.</p> <p>14 You can answer.</p> <p>15 A. That's correct.</p> <p>16 Q. Thank you.</p> <p>17 MS. TURNER: Can we pull up</p> <p>18 document 22, John.</p> <p>19 THE TECHNICIAN: Stand by.</p> <p>20 (Exhibit BB marked for</p> <p>21 identification.)</p> <p>22 THE TECHNICIAN: Document 22 is on</p> <p>23 screen, marked as Exhibit BB.</p> <p>24 MR. MARGOLIS: Just for</p> <p>25 clarification, was CCMS 201 to 212 marked as AA?</p>	<p>140</p> <p>1 Q. So yet again Mr. King is asking to</p> <p>2 move along the sublease process, correct?</p> <p>3 MR. HARRIS: Objection to form.</p> <p>4 A. Yes.</p> <p>5 MR. MARGOLIS: You broke up, Etan.</p> <p>6 Did you say something?</p> <p>7 MR. HARRIS: Yes, I object to</p> <p>8 form. But he can still answer.</p> <p>9 A. Yes.</p> <p>10 MS. TURNER: John, can you move up</p> <p>11 to the next portion of the email.</p> <p>12 Q. Do you recognize this part of the</p> <p>13 email, Mr. Shamash?</p> <p>14 A. I don't.</p> <p>15 Q. What's the date of the email?</p> <p>16 A. November 26th, 2019.</p> <p>17 Q. Who's it from?</p> <p>18 A. It's from me.</p> <p>19 Q. And you produced this document?</p> <p>20 A. I believe so.</p> <p>21 MR. HARRIS: By counsel. I</p> <p>22 produced this document.</p> <p>23 Q. And can you please just read the</p> <p>24 body of the email for me?</p> <p>25 A. (As read): "Yes, the attorneys</p>

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<p>141</p> <p>1 should be talking. I spoke to the president of</p> <p>2 the board. They're working on it. It's all</p> <p>3 good."</p> <p>4 Q. What did you mean by this email?</p> <p>5 A. It's been a couple years. I don't</p> <p>6 remember.</p> <p>7 Q. Who did you speak with?</p> <p>8 A. I don't remember. Accordingly,</p> <p>9 the president of the board. I don't know who</p> <p>10 the president is, though.</p> <p>11 Q. How could you have a conversation</p> <p>12 with someone if you don't know who they are?</p> <p>13 A. It's been a long time and I have a</p> <p>14 lot of conversations.</p> <p>15 MR. HARRIS: Objection the form.</p> <p>16 He never said that he had the conversation.</p> <p>17 Q. Do you have any reason to doubt</p> <p>18 your own words?</p> <p>19 MR. CASE: I'll object to form.</p> <p>20 A. No.</p> <p>21 Q. Is there a reason you would say</p> <p>22 you spoke to someone if you didn't speak with</p> <p>23 them?</p> <p>24 A. No.</p> <p>25 Q. Do you know why you would tell</p>	<p>143</p> <p>1 MR. CASE: You're asking him about</p> <p>2 a conversation that he doesn't recall.</p> <p>3 MS. TURNER: I mean, he has his</p> <p>4 email in front of him.</p> <p>5 A. I do not recall ever --</p> <p>6 MR. HARRIS: You're not to answer.</p> <p>7 MS. TURNER: John, you can take</p> <p>8 that document down. Pull up document 12,</p> <p>9 please.</p> <p>10 THE TECHNICIAN: Stand by.</p> <p>11 (Exhibit CC marked for</p> <p>12 identification.)</p> <p>13 THE TECHNICIAN: Document 12 is on</p> <p>14 screen now. It is marked as Exhibit CC.</p> <p>15 Q. Do you just want to take a second</p> <p>16 to review this, Mr. Shamash?</p> <p>17 MR. HARRIS: Can you zoom in,</p> <p>18 please. Thank you.</p> <p>19 (Witness reviewing document.)</p> <p>20 MR. HARRIS: Scroll down, please.</p> <p>21 Mind scrolling up a little bit? Thank you.</p> <p>22 Q. Do you recognize this email,</p> <p>23 Mr. Shamash?</p> <p>24 A. I don't know.</p> <p>25 Q. You don't know if you recognize</p>
<p>142</p> <p>1 Mr. King that you spoke to the president of the</p> <p>2 board?</p> <p>3 A. I don't remember this</p> <p>4 conversation.</p> <p>5 Q. Do you have any idea what you</p> <p>6 could be referring to?</p> <p>7 A. No.</p> <p>8 Q. What do you think Mr. King</p> <p>9 understood your statement to mean?</p> <p>10 MR. HARRIS: Objection to form.</p> <p>11 He doesn't remember this conversation.</p> <p>12 A. I don't remember the conversation.</p> <p>13 Q. Is it possible that Mr. King</p> <p>14 understood you were speaking to the president of</p> <p>15 the board about board approval for the sublease?</p> <p>16 A. That could be possible.</p> <p>17 Q. But you now don't recall who the</p> <p>18 president of the board was?</p> <p>19 A. I don't remember.</p> <p>20 Q. Is it possible that the president</p> <p>21 of the board at the time of this email was Marc</p> <p>22 Paturet?</p> <p>23 MR. CASE: Objection. Object to</p> <p>24 form.</p> <p>25 MR. HARRIS: Same, object to form.</p>	<p>144</p> <p>1 it?</p> <p>2 A. I do not recognize it.</p> <p>3 MS. TURNER: John, if you could</p> <p>4 just scroll up a little bit so we can see the</p> <p>5 date. Perfect, thank you.</p> <p>6 Q. Do you know who produced this</p> <p>7 document?</p> <p>8 A. I do not.</p> <p>9 Q. I'll represent to you that your</p> <p>10 attorney produced it in response to your</p> <p>11 subpoena.</p> <p>12 What's the date of this email,</p> <p>13 Mr. Shamash?</p> <p>14 A. December 4th, 2019.</p> <p>15 Q. And who's it addressed to?</p> <p>16 A. It's addressed from me to Robert</p> <p>17 King, Etan Harris, Saul. That's all. Me, Etan,</p> <p>18 and Saul and Robert King.</p> <p>19 Q. Can you read the body of the</p> <p>20 email. I know it's in all caps but you don't</p> <p>21 have to scream it.</p> <p>22 A. (As read): "Etan!! What's taking</p> <p>23 so long? Emory, we're not" -- I don't know</p> <p>24 whether that's a quotation of what Emory is</p> <p>25 speaking. "Emory, we're not shooting for a</p>

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<p>145</p> <p>1 better deal. We're waiting on our attorney. 2 Have your attorney call our attorney. We are 3 men of our word. Thanks." 4 Q. What did you mean by "We are men 5 of our word?" 6 A. I don't know. I think I was 7 referencing -- I don't know whether I'm -- I 8 don't know. I don't know whether I'm 9 referencing Emory is quoting Emory or whether 10 I'm writing something. I don't know. 11 Q. Why did you ask your attorney what 12 is taking so long? 13 MR. HARRIS: Objection to form. 14 He said he didn't recognize the email. 15 You can answer. 16 A. I don't remember. 17 Q. Is it possible that you understood 18 that CCMS had a deadline -- 19 A. I don't remember. 20 (Indiscernible crosstalk.) 21 Q. -- to the sublease? 22 MR. HARRIS: Answer the question. 23 A. I don't remember. 24 MS. TURNER: John, you can take 25 that document down. That was Exhibit CC, for</p>	<p>147</p> <p>1 subpoena. 2 What's the date of this email? 3 A. December 10th, 2019, 9:38 a.m. 4 Q. Who is the email from and who is 5 it addressed to? 6 A. It's from Robert King to Saul and 7 myself. 8 Q. Could you please read the body of 9 the email starting with "I sent Etan"? 10 A. (As read): "I sent Etan the below 11 email this morning. Hi Etan, Nigel has informed 12 us that all language issues in the lease have 13 been agreed upon. If so, please forward the 14 execution copy of the lease agreement to Diana 15 Lee for her review. CCMNYC is negotiating 16 another lease and time is of the essence." 17 Q. What did you understand this email 18 to mean? 19 MR. HARRIS: Objection to form. 20 A. I don't remember the email. 21 Q. Mr. Shamash, is this yet another 22 instance where CCMS or its representative has 23 asked to expedite the sublease process? 24 MR. CASE: Object to form. 25 A. Brokers always try to expedite the</p>
<p>146</p> <p>1 everyone. 2 John, if you could please pull up 3 document 23. 4 THE TECHNICIAN: Stand by, 5 counsel. 6 (Exhibit DD marked for 7 identification.) 8 THE TECHNICIAN: Document 23 is on 9 screen now. It is marked as Exhibit DD. 10 BY MS. TURNER: 11 Q. Mr. Shamash, do you want to take a 12 second to review the email? 13 A. Um-hum. (Indiscernible) 14 Q. I'm sorry? 15 A. Um-hum. 16 (Witness reviewing document.) 17 MS. TURNER: John, can you scroll 18 up a little bit so we can see the -- thank you. 19 Q. Mr. Shamash, do you recognize this 20 email? 21 A. No. 22 Q. Do you know who produced it? 23 A. No. 24 Q. I'll represent to you that your 25 attorney produced it in response to your</p>	<p>148</p> <p>1 lease. They want to get their commissions. 2 Q. Is there any reason why you 3 wouldn't take Mr. King seriously in asking to 4 expedite the lease? 5 A. We all work in good faith to 6 expedite a lease to collect rent. He wants to 7 get his commission. Nothing we can do about it, 8 it doesn't affect the deal. 9 Q. Mr. Shamash, did you know that 10 CCMS's lease for its prior location was ending? 11 A. No. Don't remember. But you have 12 to imagine it was ending but, then again, I 13 don't remember. I don't know if this was a 14 satellite -- looking back, I don't know if it 15 was a satellite space or another space. I don't 16 remember. 17 Q. Thank you. 18 MS. TURNER: John, could you move 19 up to the next email. You might be able to get 20 actually -- 21 Q. I don't know, can you see that, 22 Mr. Shamash, both of those emails? 23 A. Yes, um-hum. 24 Q. Do you recognize these emails? 25 A. No.</p>

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<p>149</p> <p>1 Q. On the bottom half, what's the</p> <p>2 date of that email?</p> <p>3 A. The one from Saul?</p> <p>4 Q. Yes.</p> <p>5 A. Tuesday, December 10th, 2019 at</p> <p>6 12:47.</p> <p>7 Q. What did Saul ask you?</p> <p>8 A. "Vote status? Saul".</p> <p>9 Q. Why was Mr. Tawil asking you about</p> <p>10 the vote status?</p> <p>11 MR. CASE: Object to form.</p> <p>12 A. Because he wanted to see where the</p> <p>13 status of the vote was.</p> <p>14 Q. Do you recall what the status of</p> <p>15 the vote was on December 10th, 2019?</p> <p>16 A. I do not.</p> <p>17 Q. Mr. Shamash, what did you respond</p> <p>18 to him the following day?</p> <p>19 A. At 3:21 I answer it, "Still</p> <p>20 waiting."</p> <p>21 Q. Oh, I'm sorry, it was the same</p> <p>22 day. Do you recall what you were still waiting</p> <p>23 on?</p> <p>24 A. I do not.</p> <p>25 Q. Were you waiting to have a</p>	<p>151</p> <p>1 A. That is correct.</p> <p>2 Q. What were you going to work on?</p> <p>3 A. I don't know.</p> <p>4 Q. Is it possible that you were going</p> <p>5 to work on getting board approval?</p> <p>6 MR. HARRIS: Objection to form.</p> <p>7 A. Possible.</p> <p>8 Q. Is it possible you were going to</p> <p>9 speak to someone on the board?</p> <p>10 A. I don't recall.</p> <p>11 Q. But is it possible?</p> <p>12 A. I don't recall.</p> <p>13 MS. TURNER: Okay, John, you can</p> <p>14 take that down. John, if you could pull up</p> <p>15 document 25.</p> <p>16 THE TECHNICIAN: Stand by,</p> <p>17 counsel.</p> <p>18 (Exhibit EE marked for</p> <p>19 identification.)</p> <p>20 THE TECHNICIAN: Document 25 is on</p> <p>21 screen now. It is marked as Exhibit EE.</p> <p>22 Q. Mr. Shamash, do you want to take a</p> <p>23 second to review the email exchange?</p> <p>24 A. Would you mind zooming out,</p> <p>25 please. I can't read it. Thank you.</p>
<p>150</p> <p>1 conversation with board members of the co-op?</p> <p>2 A. I can't recall.</p> <p>3 Q. Were you waiting to have a</p> <p>4 conversation with any specific board members of</p> <p>5 the co-op?</p> <p>6 MR. HARRIS: Objection to form.</p> <p>7 A. I don't recall. Still waiting, I</p> <p>8 don't know.</p> <p>9 MS. TURNER: John, if you can move</p> <p>10 up to the next set of two emails I think we can</p> <p>11 get both in, as long as Mr. Shamash can see</p> <p>12 them.</p> <p>13 Q. Do you recognize this email</p> <p>14 exchange, Mr. Shamash?</p> <p>15 A. I do not.</p> <p>16 Q. The following date, December 11th,</p> <p>17 2019 Mr. Tawil asking you "any sense of when?"</p> <p>18 Do you know what he's referring to?</p> <p>19 A. I do not.</p> <p>20 Q. Is he referring to the vote</p> <p>21 status?</p> <p>22 A. I don't know.</p> <p>23 Q. And the following -- or same day,</p> <p>24 two minutes later, you respond that you will</p> <p>25 work on it this afternoon. Is that correct?</p>	<p>152</p> <p>1 (Witness reviewing document.)</p> <p>2 Q. Were you able to review the</p> <p>3 document, Mr. Shamash?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recognize this email</p> <p>6 exchange?</p> <p>7 A. No.</p> <p>8 Q. Looking at the email before us,</p> <p>9 what's the date of this email?</p> <p>10 A. December 12th, 2019, 3:52.</p> <p>11 Q. Do you know who produced this</p> <p>12 document?</p> <p>13 A. No.</p> <p>14 Q. I'll represent to you that your</p> <p>15 attorney produced it as responsive to your</p> <p>16 subpoena.</p> <p>17 Who's this email from and who is</p> <p>18 it addressed to?</p> <p>19 A. It's from Robert King to Saul and</p> <p>20 myself.</p> <p>21 Q. And can you just read the body of</p> <p>22 the email starting with "Saul" and ending with</p> <p>23 "off on it."</p> <p>24 A. "Okay guys. Saul, I misread</p> <p>25 Diana's email. CCM wants to move in on Monday.</p>

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<p>153</p> <p>1 I believe that everything has been agreed upon</p> <p>2 so please push Etan to make the final changes to</p> <p>3 the lease so Emory Brooks can sign off on it."</p> <p>4 Q. Did you understand that CCMS</p> <p>5 wanted to move in in mid-December to the</p> <p>6 premises?</p> <p>7 MR. HARRIS: Objection to form.</p> <p>8 A. They would like to. They need a</p> <p>9 board meeting to get in there.</p> <p>10 Q. But did you understand that?</p> <p>11 A. Understand what?</p> <p>12 Q. That they wanted to move in in</p> <p>13 mid-December.</p> <p>14 A. According to this email, sure.</p> <p>15 Q. You have no recollection --</p> <p>16 A. No, I don't remember this deal</p> <p>17 very well.</p> <p>18 Q. Why is that?</p> <p>19 A. Because I have a lot of</p> <p>20 transactions which I have to deal with. I'm a</p> <p>21 very busy person and the thing that stays in my</p> <p>22 mind is the uncomfortable meeting which</p> <p>23 proceeded.</p> <p>24 Q. So you've selectively forgotten</p> <p>25 the months of communications leading up to the</p>	<p>155</p> <p>1 you the status on the vote; is that correct?</p> <p>2 MR. HARRIS: Objection to form.</p> <p>3 A. According to this email.</p> <p>4 Q. Why was Saul asking about the</p> <p>5 status on the vote?</p> <p>6 MR. HARRIS: Objection to form.</p> <p>7 A. Because he wanted to lease the</p> <p>8 space.</p> <p>9 Q. And had the status changed?</p> <p>10 A. I don't recall.</p> <p>11 Q. In response, Mr. Shamash, on</p> <p>12 December 12th you responded to Saul, "I'm</p> <p>13 sending signed lease to Kaled. Joey completely</p> <p>14 MIA."</p> <p>15 A. Um-hum.</p> <p>16 Q. What did you mean by "Joey</p> <p>17 completely MIA"?</p> <p>18 A. MIA, missing in action.</p> <p>19 Q. And the Joey you're referring to</p> <p>20 in this email, is that Joseph or Joey Grill?</p> <p>21 A. I would imagine so.</p> <p>22 MR. HARRIS: Objection to form.</p> <p>23 A. I'd imagine so.</p> <p>24 Q. What did you mean by "Joey</p> <p>25 completely MIA"; how did that relate to</p>
<p>154</p> <p>1 board meeting?</p> <p>2 MR. HARRIS: Objection to form.</p> <p>3 You can answer.</p> <p>4 A. I think the phrase "selectively</p> <p>5 forgotten" implies that I --</p> <p>6 (Reporter clarification.)</p> <p>7 A. I think the phrase "selectively</p> <p>8 forgotten" means that you're implying I have any</p> <p>9 choice of cognitive dissonance. No, I just</p> <p>10 don't remember every email that I've written.</p> <p>11 Q. Do you remember conversations</p> <p>12 you've had?</p> <p>13 A. Of course I do.</p> <p>14 Q. But not conversations with board</p> <p>15 members about board approval for this sublease?</p> <p>16 A. I remember what I remember. We</p> <p>17 are going through this deposition to see what I</p> <p>18 remember.</p> <p>19 MS. TURNER: John, if you could</p> <p>20 move up to the next exchange. I think you might</p> <p>21 have missed. Perfect.</p> <p>22 Q. Mr. Shamash, do you recognize this</p> <p>23 exchange?</p> <p>24 A. No.</p> <p>25 Q. On December 12th, 2019 Saul asked</p>	<p>156</p> <p>1 Mr. Tawil's --</p> <p>2 A. I don't remember.</p> <p>3 Q. -- question?</p> <p>4 A. Don't remember.</p> <p>5 Q. Had you had conversations with</p> <p>6 Joey about board approval for this sublease?</p> <p>7 A. I doubt it, seeing that I'm saying</p> <p>8 he was MIA.</p> <p>9 Q. Why would Joey being MIA matter</p> <p>10 for purposes of approving the sublease?</p> <p>11 MR. HARRIS: Objection.</p> <p>12 A. Because he's a busy individual.</p> <p>13 MS. TURNER: John, if you could</p> <p>14 just scroll to the next email exchange.</p> <p>15 Q. I'm looking at the December 13,</p> <p>16 2019 email from Saul, Mr. Tawil.</p> <p>17 A. Um-hum.</p> <p>18 Q. Do you recognize this response</p> <p>19 from Mr. Tawil?</p> <p>20 A. I don't.</p> <p>21 Q. Could you read it for me, please.</p> <p>22 A. "MIA - missing in action, or</p> <p>23 mine?"</p> <p>24 Q. What did you understand this email</p> <p>25 to mean?</p>

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<p>157</p> <p>1 MR. HARRIS: Objection.</p> <p>2 A. Saul writes very different emails.</p> <p>3 Q. I'm sorry?</p> <p>4 A. I said, Saul writes very different</p> <p>5 emails.</p> <p>6 Q. Is Mr. Tawil asking you whether</p> <p>7 Joey is missing in action?</p> <p>8 A. Your interpretation is as good as</p> <p>9 mine.</p> <p>10 Q. Is it possible Mr. Tawil is asking</p> <p>11 you whether Mr. Grill is his, in the sense that</p> <p>12 he will agree to the sublease?</p> <p>13 A. No, I doubt it was that. Wouldn't</p> <p>14 make sense.</p> <p>15 Q. What do you think Mr. Tawil meant</p> <p>16 by "or mine?"</p> <p>17 A. I don't know, but...</p> <p>18 Q. So looking at the email below it</p> <p>19 where you said "Joey completely MIA," is it</p> <p>20 possible Mr. Tawil was not sure whether you</p> <p>21 meant missing in action or Joey completely mine?</p> <p>22 MR. HARRIS: Objection to form.</p> <p>23 You can answer if you know.</p> <p>24 A. I don't know. My guess would be,</p> <p>25 do you mean missing in action?</p>	<p>159</p> <p>1 BY MS. TURNER:</p> <p>2 Q. Mr. Shamash, do you recognize this</p> <p>3 email, once you've had a chance to review?</p> <p>4 (Witness reviewing document.)</p> <p>5 A. Um-hum.</p> <p>6 Q. Do you recognize this email?</p> <p>7 A. Yes.</p> <p>8 Q. On December 13th, 2019 Mr. King</p> <p>9 has sent you an email and also forwarded the</p> <p>10 below section beginning with "Emory," asking you</p> <p>11 to provide the information in bold. Is that</p> <p>12 correct?</p> <p>13 A. That's what the email says.</p> <p>14 MS. TURNER: Actually, can we pull</p> <p>15 up Exhibit J.</p> <p>16 THE TECHNICIAN: Stand by,</p> <p>17 counsel, one moment.</p> <p>18 Exhibit J on screen now.</p> <p>19 Q. Mr. Shamash, do you recognize this</p> <p>20 document?</p> <p>21 A. Can you zoom in please.</p> <p>22 (Witness reviewing document.)</p> <p>23 A. No.</p> <p>24 MR. HARRIS: Can you continue to</p> <p>25 the bottom.</p>
<p>158</p> <p>1 Q. Thank you.</p> <p>2 MS. TURNER: John, you can take</p> <p>3 this document down, which was marked EE.</p> <p>4 MR. HARRIS: Can we take a five-</p> <p>5 minute break to go to the restroom? Is that</p> <p>6 okay?</p> <p>7 MS. TURNER: That's fine with me.</p> <p>8 MR. HARRIS: 2:50, 2:51.</p> <p>9 THE VIDEOGRAPHER: We're going off</p> <p>10 the record; the time is 14:46.</p> <p>11 (Recess taken.)</p> <p>12 THE VIDEOGRAPHER: We're back on</p> <p>13 the record; the time is 14:52.</p> <p>14 BY MS. TURNER:</p> <p>15 Q. Welcome back, Mr. Shamash.</p> <p>16 MS. TURNER: John, can you pull up</p> <p>17 the document beginning with CCMS and ending in</p> <p>18 66.</p> <p>19 THE TECHNICIAN: Stand by,</p> <p>20 counsel.</p> <p>21 (Exhibit FF marked for</p> <p>22 identification.)</p> <p>23 THE TECHNICIAN: That document is</p> <p>24 on screen now. It is marked as Exhibit FF.</p> <p>25 MS. TURNER: Thank you.</p>	<p>160</p> <p>1 A. No.</p> <p>2 Q. You don't recognize this document,</p> <p>3 Mr. Shamash?</p> <p>4 A. I do not.</p> <p>5 MS. TURNER: John, can you go back</p> <p>6 up to the first page, please.</p> <p>7 Q. Mr. Shamash, can you read next to</p> <p>8 "use" what the description is.</p> <p>9 A. "Offices and for tenant's</p> <p>10 counseling programs, including mental health but</p> <p>11 no substance abuse counseling."</p> <p>12 Q. Was this consistent with all your</p> <p>13 discussions with CCMS regarding the use of this</p> <p>14 space, prior to this document?</p> <p>15 A. Offices and for tenant's</p> <p>16 counseling programs, mental health but no</p> <p>17 substance -- yeah, I'd say that's consistent.</p> <p>18 Q. And I believe earlier you stated</p> <p>19 that Oxford typically entered into subleases</p> <p>20 ranging from three to seven years.</p> <p>21 A. Three to ten.</p> <p>22 Q. Three to ten. Why were you</p> <p>23 seeking a ten-year lease with CCMS?</p> <p>24 A. Because they seemed like a good</p> <p>25 tenant and the rent was there.</p>

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<p>161</p> <p>1 Q. What made them seem like a good</p> <p>2 tenant?</p> <p>3 A. Well, they were an office use,</p> <p>4 which is consistent with the historical use.</p> <p>5 They had other locations, and that space</p> <p>6 specifically was very high end.</p> <p>7 Q. But you also visited the space at</p> <p>8 31st Street, correct?</p> <p>9 A. As mentioned in previous emails</p> <p>10 that we went over from then, they were saying</p> <p>11 that the space in Brooklyn was akin to what they</p> <p>12 were doing in this space.</p> <p>13 Q. My question was you also visited</p> <p>14 the space at 31st Street --</p> <p>15 A. I saw --</p> <p>16 MR. HARRIS: Let her finish her</p> <p>17 question.</p> <p>18 Q. My question was you also visited</p> <p>19 the space at the 31st Street clinic, correct?</p> <p>20 A. As mentioned previously, I went up</p> <p>21 in the elevator, I looked around and went back</p> <p>22 down inside of the elevator.</p> <p>23 MS. TURNER: John, you can take</p> <p>24 that down. Can we pull up COOP 324.</p> <p>25 THE TECHNICIAN: Stand by.</p>	<p>163</p> <p>1 parts of that document. I remember parts of</p> <p>2 that email, in particular the bit that I'm</p> <p>3 looking at right now.</p> <p>4 MS. TURNER: Okay, John, can you</p> <p>5 just zoom out a little bit.</p> <p>6 Q. Can you identify for me what parts</p> <p>7 you remember?</p> <p>8 A. The parts where it references</p> <p>9 there is no substance abuse treatment. The part</p> <p>10 where we mention it's a quiet tenancy with a</p> <p>11 full floor with no division plan and minimal</p> <p>12 construction. I remember, vague memory of</p> <p>13 writing that email. I don't remember the</p> <p>14 specifics of the email.</p> <p>15 Q. Sorry, I'm just trying to find the</p> <p>16 document on my end.</p> <p>17 MS. TURNER: John, can you</p> <p>18 possibly zoom out to see the full document. I'm</p> <p>19 not able to find it on my end. Thank you.</p> <p>20 Q. Mr. Shamash, did you send this</p> <p>21 email on December 19th to Peter Lehr?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Could you read the first full</p> <p>24 sentence, second paragraph for me, please.</p> <p>25 A. "I believe they are a good use for</p>
<p>162</p> <p>1 (Exhibit GG marked for</p> <p>2 identification.)</p> <p>3 THE TECHNICIAN: COOP 324 is on</p> <p>4 screen now. It is marked as Exhibit GG.</p> <p>5 Q. Mr. Shamash, can you take a second</p> <p>6 to review this document.</p> <p>7 (Witness reviewing document.)</p> <p>8 Q. Mr. Shamash, do you recognize this</p> <p>9 document?</p> <p>10 A. No.</p> <p>11 Q. Again, why don't you recognize it?</p> <p>12 MR. HARRIS: Objection to form.</p> <p>13 Why don't you recognize a document, that doesn't</p> <p>14 make any sense.</p> <p>15 MS. TURNER: Well, you're not</p> <p>16 asking the questions.</p> <p>17 MR. HARRIS: Objection to form. I</p> <p>18 don't understand how someone can know how they</p> <p>19 don't remember something. You want to rephrase</p> <p>20 it, go for it. If not, not.</p> <p>21 Q. Mr. Shamash, you don't recall</p> <p>22 anything about this email or the content</p> <p>23 therein?</p> <p>24 A. You asked me if I recognized the</p> <p>25 document. You didn't ask me if I remember any</p>	<p>164</p> <p>1 the building as they are low traffic" --</p> <p>2 MR. HARRIS: Could you back out a</p> <p>3 little bit. It's being blocked by the zoom</p> <p>4 screen area.</p> <p>5 A. "I believe they are a good use for</p> <p>6 the building as they are low in traffic, and</p> <p>7 conformant with the traffic nature of the</p> <p>8 building, a place of business and very 9 to 5.</p> <p>9 Should they be operating after building hours</p> <p>10 for any reason, as with our other tenants, they</p> <p>11 have to pay for a doorman."</p> <p>12 Q. Why did you represent that CCMS</p> <p>13 would be using the premises for low traffic?</p> <p>14 A. Because that is what was presented</p> <p>15 to us.</p> <p>16 Q. So, in Exhibit J that you just</p> <p>17 reviewed, which indicated CCMS would be</p> <p>18 providing counseling services, you would qualify</p> <p>19 counseling services as low traffic?</p> <p>20 MR. HARRIS: Objection to form.</p> <p>21 You can answer.</p> <p>22 A. As mentioned in the next</p> <p>23 paragraph, the use was going to be akin to</p> <p>24 Clinton Street, which I was told was low</p> <p>25 traffic. Clinton Hill, not Clinton Street,</p>

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<p>165</p> <p>1 which I was told was low traffic.</p> <p>2 Q. But the express terms of the</p> <p>3 sublease included counseling services, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you still define that as low</p> <p>6 traffic?</p> <p>7 A. Yes. It was defined to us as low</p> <p>8 traffic.</p> <p>9 Q. Do you understand what counseling</p> <p>10 services are?</p> <p>11 A. Not my -- no. No, I don't.</p> <p>12 Q. If I say I'm providing medical</p> <p>13 services, would you understand that to mean a</p> <p>14 patient is coming in and receiving a service?</p> <p>15 A. It was not presented to us as</p> <p>16 medical services.</p> <p>17 Q. How would counseling services be</p> <p>18 any different than medical services? You're</p> <p>19 still providing a service to a patient.</p> <p>20 A. It was ancillary.</p> <p>21 Q. Where in the sublease does it say</p> <p>22 ancillary?</p> <p>23 A. I didn't write the sublease.</p> <p>24 Q. But you agreed on the terms of the</p> <p>25 sublease?</p>	<p>167</p> <p>1 because it's an office building, not a narcotics</p> <p>2 building.</p> <p>3 Immediately after this there was a</p> <p>4 meeting where the first thing that he said was</p> <p>5 there's going to be narcotics. One would</p> <p>6 imagine the initial question was pursuant to</p> <p>7 this email which was the one email from me to</p> <p>8 the board saying, by the way, there's no</p> <p>9 narcotics.</p> <p>10 Q. Mr. Shamash, did we review</p> <p>11 multiple documents today where CCMS, or its</p> <p>12 representative, represented that they wouldn't</p> <p>13 provide substance abuse counseling?</p> <p>14 A. Yes.</p> <p>15 Q. And it's your position that</p> <p>16 Mr. Brooks entered the meeting and said the</p> <p>17 exact opposite?</p> <p>18 A. Correct.</p> <p>19 Q. Are you aware that CCMS would have</p> <p>20 been required to have a special state license to</p> <p>21 have substance abuse counseling at the premises?</p> <p>22 A. No.</p> <p>23 Q. You weren't informed of this after</p> <p>24 the meeting?</p> <p>25 A. No. Not that I know of.</p>
<p>166</p> <p>1 A. I did not.</p> <p>2 Q. Oxford agreed on the terms of the</p> <p>3 sublease?</p> <p>4 A. Yes.</p> <p>5 Q. And you presented that to the</p> <p>6 board?</p> <p>7 A. Presented to the best of my</p> <p>8 knowledge as was sent to me through the broker.</p> <p>9 Q. Did you read the sublease?</p> <p>10 A. No.</p> <p>11 Q. Did you know about the use clause?</p> <p>12 A. No.</p> <p>13 Q. Can you just explain the capacity</p> <p>14 in which you presented --</p> <p>15 A. Of course.</p> <p>16 Q. -- CCMS to the board?</p> <p>17 A. Of course. So the broker is</p> <p>18 presenting a term sheet that are negotiated by</p> <p>19 the lawyers. My capacity is to get this through</p> <p>20 the board and approved. And my capacity is to</p> <p>21 use my best judgment as to what the use is</p> <p>22 conformant to going up to the board.</p> <p>23 Pursuant to this, as it's stated</p> <p>24 over here, if there was narcotic counseling, it</p> <p>25 would be an immediate no from this board,</p>	<p>168</p> <p>1 Q. Why would Mr. Brooks represent</p> <p>2 that he was going to perform substance abuse</p> <p>3 counseling if he didn't possess a license to do</p> <p>4 so?</p> <p>5 A. I can't speak for him.</p> <p>6 Q. Mr. Shamash, in this email to</p> <p>7 Peter Lehr, which was forwarded to defendants,</p> <p>8 you also stated "a place for business and very 9</p> <p>9 to 5." Did you understand CCMS would also --</p> <p>10 would be operating as late as 8 p.m. and also on</p> <p>11 Saturday?</p> <p>12 A. This is my expression of what I</p> <p>13 understood the deal to be from the broker.</p> <p>14 Q. Who was the broker?</p> <p>15 A. Robert King.</p> <p>16 Q. But did you review the sublease</p> <p>17 terms or the sublease itself?</p> <p>18 A. No.</p> <p>19 MS. TURNER: John, if you could</p> <p>20 just scroll down to the second part of the</p> <p>21 email.</p> <p>22 Q. Can you read, Mr. Shamash, can you</p> <p>23 read the sentence starting with, and I won't</p> <p>24 scream it, "There is no substance because</p> <p>25 treatment."</p>

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<p>169</p> <p>1 A. (As read): "There is no 2 substance" -- well, let's start, "CCM is a 3 30-year-old organization which has around ten 4 satellite locations around the city. This 5 location is their new HQ and we have been very 6 clear in the lease. There is no substance abuse 7 treatment, no questionable traffic to the 8 building. It is exactly the use as the use 9 clause states in the lease agreement: The 10 administrative offices for their programs 11 including but not limited to..." 12 Q. Mr. Shamash, is there a reason you 13 left out counseling programs in the use clause? 14 A. Yes. 15 Q. Why? 16 A. Because it was ancillary. 17 Q. Is the word "ancillary" in the use 18 clause? 19 A. I don't know. 20 Q. Well, we can pull up the sublease. 21 A. You can. 22 MS. TURNER: Actually, let's pull 23 up Exhibit G. 24 THE TECHNICIAN: Stand by, 25 counsel. One moment.</p>	<p>171</p> <p>1 documents. 2 Q. Did you know the board would be 3 reviewing the sublease application? 4 A. Sure. 5 Q. And you didn't think to review the 6 sublease application to make sure that it was 7 consistent with your representation to the 8 board? 9 A. That is correct. 10 MS. TURNER: John, can we go to 11 the first page of the document. I'm sorry, the 12 second substantive page. 13 THE TECHNICIAN: So the page after 14 this one, counsel? 15 MS. TURNER: Yes, please. 16 Q. Mr. Shamash, can you please read 17 the written response to "Please give description 18 of daily operation." 19 A. (As read): "At the 129th Street 20 office we will provide a licensed out-patient 21 clinic, providing psycho" -- can you zoom out? 22 "Providing psycho -- psycho therapist services." 23 Q. Thank you. What do you think when 24 reviewing that language, Mr. Shamash? 25 MR. HARRIS: Objection to form.</p>
<p>170</p> <p>1 Exhibit G on screen. 2 Q. Mr. Shamash, are you familiar with 3 this document or do you need a second to review? 4 MR. HARRIS: Review it. 5 A. I'd like to review it. 6 (Witness reviewing document.) 7 Q. Mr. Shamash, do you recognize this 8 document? 9 A. I don't. 10 Q. You've never seen this sublease 11 application? 12 A. I have no memory of it. 13 Q. Did you ask my client CCMS to fill 14 this out? 15 A. I don't know whether I was in 16 receipt of it or sent it straight to Kaled or 17 straight to Saul, or it may have been sent to 18 me. I haven't seen it. I don't remember it. 19 Q. If it was sent to you, would you 20 have reviewed it? 21 A. Probably not. 22 Q. Why not? 23 A. Because it's not really my job 24 description with Saul. I'm here to just bring 25 things forward. I don't really open very many</p>	<p>172</p> <p>1 A. I don't have a memory for this. 2 Q. In your opinion is this consistent 3 with the use in the sublease? 4 A. In my opinion that's not really 5 consistent in what was presented to me as their 6 use. That's the question you're meaning to ask? 7 Q. Would this be consistent with 8 counseling services? Counseling programs? 9 MR. HARRIS: Objection to form. 10 You can answer. 11 A. The use is written inside the 12 sublease. 13 Q. I'm sorry? 14 A. The use is written inside of the 15 sublease, under the use clause. That's probably 16 the extent of what I would -- that's the extent 17 of what would be presented to me. 18 Q. Understood. Below number 6 we 19 have A, B, C, D. How many employees daily, 20 what's the written response to how many 21 employees daily will be at the premises? 22 A. 12. 23 Q. And how many customers daily? 24 A. 50. 25 Q. And how many weekly?</p>

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<p>173</p> <p>1 A. 200.</p> <p>2 Q. And then what's the response for</p> <p>3 hours of operation and days of week?</p> <p>4 A. Monday through Thursday, 9 a.m. to</p> <p>5 8 p.m.; Friday and Saturday, 9 to 5. Days of</p> <p>6 week, Monday through Saturday.</p> <p>7 Q. So this sublease application that</p> <p>8 my client filled out, would you say it's</p> <p>9 consistent with low traffic, normal office</p> <p>10 hours?</p> <p>11 A. On a 7500 square foot space, 50</p> <p>12 people throughout the day would be relatively</p> <p>13 low traffic, yes. At the meeting -- should I</p> <p>14 carry on? At the meeting he said he was going</p> <p>15 to have rooms with like tons of people, hundreds</p> <p>16 of people. This is not consistent with that.</p> <p>17 They're saying 200 people per week. Yes, that's</p> <p>18 consistent to low traffic for a 7500 square foot</p> <p>19 space. It's a full floor of an office building.</p> <p>20 Q. Mr. Shamash, we went over the</p> <p>21 floor plan earlier and I think you agreed there</p> <p>22 were about 14 offices on the eighth floor,</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. How do you believe my client could</p>	<p>175</p> <p>1 Q. But otherwise, you don't have any</p> <p>2 proof of what my client said in the meeting?</p> <p>3 A. Sure.</p> <p>4 Q. Do you recall when --</p> <p>5 MR. HARRIS: One second, it looks</p> <p>6 like Barry stepped away.</p> <p>7 MR. MARGOLIS: I'm still here.</p> <p>8 MR. HARRIS: Okay.</p> <p>9 MR. MARGOLIS: Thank you.</p> <p>10 MR. HARRIS: Continue, Barry?</p> <p>11 MR. MARGOLIS: Please continue.</p> <p>12 Sorry.</p> <p>13 Q. Mr. Shamash, do you recall when my</p> <p>14 client submitted this sublease application?</p> <p>15 A. No.</p> <p>16 Q. Does December 24th, 2019 sound</p> <p>17 correct?</p> <p>18 A. If that's what's written on the</p> <p>19 email.</p> <p>20 Q. Just give me one second.</p> <p>21 MS. TURNER: John, can we pull up</p> <p>22 Exhibit K.</p> <p>23 THE TECHNICIAN: Stand by,</p> <p>24 counsel.</p> <p>25 Exhibit K is on screen. Is there</p>
<p>174</p> <p>1 have had hundreds of people in the office?</p> <p>2 A. Well, since he said that in the</p> <p>3 meeting.</p> <p>4 Q. Did you record that meeting too?</p> <p>5 A. I recorded my conversation with</p> <p>6 Mr. Brooks, luckily. Mr. Brooks -- no.</p> <p>7 Mr. King, luckily, immediately after.</p> <p>8 Q. So the only evidence you have that</p> <p>9 my client, Mr. Brooks, said that he was going to</p> <p>10 provide substance abuse counseling and hundreds</p> <p>11 of people would enter the premises daily is your</p> <p>12 word versus his?</p> <p>13 MR. HARRIS: Objection to form.</p> <p>14 That's not what he said. You can answer.</p> <p>15 A. That's not what I said.</p> <p>16 Q. What did you say then?</p> <p>17 A. I said that when I finished the</p> <p>18 meeting I immediately called the broker and</p> <p>19 stated how the meeting went. It was an</p> <p>20 incredibly uncomfortable meeting. I recorded</p> <p>21 it, mentioning exactly what happened, as I</p> <p>22 remembered five minutes previously. And using</p> <p>23 that, that has jogged my memory as to what</p> <p>24 happened in the meeting. It's the best form</p> <p>25 of -- I could find.</p>	<p>176</p> <p>1 a particular section you're looking for?</p> <p>2 MS. TURNER: I'm concerned with</p> <p>3 this first page, if you could zoom in on the --</p> <p>4 if you can see right where your cursor is, I</p> <p>5 want to make sure I get that line and above it</p> <p>6 in.</p> <p>7 MR. HARRIS: Just zoom out a</p> <p>8 little bit because the screens on the right are</p> <p>9 blocking -- there we go.</p> <p>10 Q. Mr. Shamash, you didn't have a</p> <p>11 chance to review this entire document, but I'll</p> <p>12 represent to you that this is the sublease</p> <p>13 agreement that my client signed. Do you</p> <p>14 recognize this document?</p> <p>15 A. I recognize it as the front page</p> <p>16 of a standard form of sublease, yes.</p> <p>17 Q. In the center of the page where it</p> <p>18 says "Occupancy," and I know it's very blurry.</p> <p>19 To the extent you can, can you read what it says</p> <p>20 next to "Occupancy."</p> <p>21 A. Would you mind pointing it out for</p> <p>22 me, please.</p> <p>23 (As read): "Tenant shall use and</p> <p>24 occupy demised premises for general, executive</p> <p>25 and administrative offices and for tenant's</p>

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<p>177</p> <p>1 counseling programs, including but not limited 2 to mental health, all of the foregoing 3 connections will be" -- "and in furtherance of 4 tenant's purposes and activities, but excluding 5 substance abuse counseling." 6 Q. Mr. Shamash, is this consistent 7 with the sublease application that my client 8 filled out? 9 A. I didn't write the sublease and I 10 didn't write the application. I think that's a 11 question for counsel. 12 Q. Mr. Shamash, do you think that 13 this description of the use is consistent with 14 your email to the board about low traffic? 15 A. Sure, yeah. 16 Q. Mr. Shamash, why didn't you ask 17 CCMS to complete a sublease application earlier? 18 A. We don't know the specifics of how 19 this would go on. You don't submit an 20 application until you are filing with the board. 21 You don't file with the board until you've got a 22 signed lease. 23 The other question, you just asked 24 me why did I ask. It may have gone through 25 counsel. I don't know who asked for what. </p>	<p>179</p> <p>1 in the deposition of my client and that's the 2 way it was used in the deposition, so we're just 3 using it. 4 MR. HARRIS: No problem. 5 BY MS. TURNER: 6 Q. Mr. Shamash, do you recognize this 7 email exchange? 8 A. No. 9 Q. Do you recall anything related to 10 the events described in the email exchange? 11 A. No. It's an email from Emory 12 Brooks to Susan Rubin and me, but it's from 13 Emory to Susan. 14 Q. Understood. And Mr. Brooks is 15 attaching the sublease application that we 16 reviewed a few documents ago? 17 A. Um-hum. 18 MS. TURNER: John, if you could 19 just scroll up. 20 Q. Do you recall what your email on 21 December 26th, 2019 was referring to? 22 A. I don't, but if I'm going to say 23 process checks, I would like to note that it's 24 probably not his checks for security deposit and 25 first month's rent; rather, the checks for the </p>
<p>180</p> <p>1 MR. MARGOLIS: Nancy, can I ask 2 that that be read back, or that the witness 3 repeat, the question and answer be repeated 4 because I didn't get it. 5 (Record read.) 6 MS. TURNER: John, could you pull 7 up Exhibit I. 8 THE TECHNICIAN: Stand by, 9 counsel. Exhibit I is on screen now. 10 MR. HARRIS: Can you zoom in; it's 11 really small. 12 Q. Mr. Shamash, if you could just 13 take a second to review this, if you need to. 14 A. Yes, please. 15 (Witness reviewing document.) 16 Q. Are you finished reviewing, 17 Mr. Shamash? 18 MR. HARRIS: Counsel, is there -- 19 it says 2 of 4 pages. Is there two more pages 20 on this? 21 THE TECHNICIAN: This document 22 only has two pages. I don't know what that 2/4 23 indicates. 24 MR. HARRIS: No problem. 25 MS. TURNER: This exhibit was used </p>	<p>180</p> <p>1 Co-op Board's approval to set up a meeting. 2 Q. Understood. After that first 3 sentence, though, can you read only the second 4 sentence. 5 A. "Is that okay? Thanks." 6 Q. No. 7 A. "However, we are in a rush." 8 Q. Thank you. 9 Why did you tell Ms. Rubin that 10 you were in a rush? 11 A. Same reason that Mr. King asks 12 that we're in a rush. I want to get my tenant 13 inside there and I want to collect rent. I 14 don't want to take time. 15 Q. So you weren't willing to expedite 16 a rush for the sublease for the past two months 17 until December 26th, 2019? 18 MR. HARRIS: Objection to form. 19 He never said that. 20 MR. CASE: Object to form. 21 A. Why would I be delaying? I want 22 to get my customer in the building so I can 23 collect rent. 24 Q. Could you have been referring to 25 rushing a meeting with the board to approve the </p>

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<p>181</p> <p>1 sublease?</p> <p>2 A. When you say collect, you're</p> <p>3 referring -- what are you talking about? In</p> <p>4 this email or previous? What are you</p> <p>5 referencing?</p> <p>6 Q. In this email when you said</p> <p>7 "However, we are in a rush," could you be</p> <p>8 referring to expediting or hurrying up a board</p> <p>9 meeting to approve the sublease?</p> <p>10 A. Sure.</p> <p>11 Q. So you understood that CCMS needed</p> <p>12 the sublease approval as soon as possible?</p> <p>13 MR. HARRIS: Objection to form.</p> <p>14 A. It doesn't mean that. We were in</p> <p>15 a rush, I was in a rush. I don't want to go</p> <p>16 back and forth. I want to get this board</p> <p>17 meeting and get a tenant in my building.</p> <p>18 Q. Understood, thank you.</p> <p>19 MS. TURNER: John, can you pull up</p> <p>20 Exhibit M, please.</p> <p>21 THE TECHNICIAN: Counsel, is that</p> <p>22 M as in mountain or N as in November?</p> <p>23 MS. TURNER: M as in mountain.</p> <p>24 THE TECHNICIAN: Thank you. One</p> <p>25 moment.</p>	<p>183</p> <p>1 produce it in response to your subpoena?</p> <p>2 A. There's no reason.</p> <p>3 Q. You didn't locate it in your</p> <p>4 files?</p> <p>5 A. I sent all the files that came up</p> <p>6 in the search.</p> <p>7 MR. HARRIS: Counsel, I did not</p> <p>8 see this email when I reviewed it.</p> <p>9 Q. Understood.</p> <p>10 What did you understand</p> <p>11 Mr. Conte's email to mean on December 26th,</p> <p>12 2019?</p> <p>13 A. The board will meet on January</p> <p>14 14th to consider the application and that it's</p> <p>15 customary that the applicant appear for an</p> <p>16 interview, meaning applicants always have to go</p> <p>17 for an interview to get into the building.</p> <p>18 According to our bylaws, all sublets must be</p> <p>19 approved, and that he's not sure why anyone</p> <p>20 would assume otherwise.</p> <p>21 Q. Thank you.</p> <p>22 Did it seem strange at all that</p> <p>23 the Co-op Board couldn't schedule a meeting</p> <p>24 until January 14th?</p> <p>25 A. No; people are very busy. And</p>
<p>182</p> <p>1 MS. TURNER: I haven't heard that</p> <p>2 one. I always heard M as in Mary.</p> <p>3 THE TECHNICIAN: Exhibit M is on</p> <p>4 screen.</p> <p>5 MS. TURNER: Thank you, John.</p> <p>6 Q. Mr. Shamash, you want to take a</p> <p>7 second to review this, see if you recognize it.</p> <p>8 (Witness reviewing document.)</p> <p>9 Q. Do you recognize it, Mr. Shamash?</p> <p>10 A. I do not.</p> <p>11 Q. Do you recall any of the events</p> <p>12 referenced in this email?</p> <p>13 A. No. I also don't know who some of</p> <p>14 the parties are.</p> <p>15 Q. Who do you not recognize?</p> <p>16 A. At the top.</p> <p>17 Q. At the top of the document?</p> <p>18 A. Yeah. I don't know who aweil is.</p> <p>19 MS. TURNER: We can just go back</p> <p>20 to that clip you had before, John.</p> <p>21 Q. Mr. Shamash, did you receive this</p> <p>22 email?</p> <p>23 A. I see an email with my name on it,</p> <p>24 so I have to imagine so.</p> <p>25 Q. Is there a reason you didn't</p>	<p>184</p> <p>1 you're also talking about the holidays right</p> <p>2 now, it's December 26th. You have Christmas,</p> <p>3 Hanukkah.</p> <p>4 Q. But Mr. Conte's responding to an</p> <p>5 email the day after Christmas.</p> <p>6 A. Sure, but he's not the only person</p> <p>7 there. He's got to meet the whole board.</p> <p>8 Q. Do you have any idea why January</p> <p>9 14th, 2020 was chosen for the board interview?</p> <p>10 A. I have no idea.</p> <p>11 Q. Were you asked if you were</p> <p>12 available on that date?</p> <p>13 A. No, I'm here to get a tenant in.</p> <p>14 I'll make myself available.</p> <p>15 Q. And when Mr. Conte says, "It is</p> <p>16 customary that the applicant appear for an</p> <p>17 interview at that time," is it required?</p> <p>18 A. I'm not familiar with the</p> <p>19 proprietary lease.</p> <p>20 MS. TURNER: Thanks, John. Can</p> <p>21 you pull up document 28.</p> <p>22 THE TECHNICIAN: Stand by,</p> <p>23 counsel.</p> <p>24 (Exhibit HH marked for</p> <p>25 identification.)</p>

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<p>185</p> <p>1 THE TECHNICIAN: Document 28 is on</p> <p>2 screen. It is marked as Exhibit HH.</p> <p>3 Q. Mr. Shamash, do you want to take a</p> <p>4 second to review this?</p> <p>5 A. Um-hum. Can we see the rest of</p> <p>6 it.</p> <p>7 (Witness reviewing document.)</p> <p>8 Q. Mr. Shamash, do you recognize this</p> <p>9 document?</p> <p>10 A. I don't.</p> <p>11 Q. Do you know who produced it?</p> <p>12 A. I don't.</p> <p>13 MR. HARRIS: I produced it.</p> <p>14 MS. TURNER: Thank you,</p> <p>15 Mr. Harris.</p> <p>16 MR. MARGOLIS: I didn't hear what</p> <p>17 Etan said.</p> <p>18 MR. HARRIS: Counsel, I produced</p> <p>19 the document.</p> <p>20 MR. MARGOLIS: Thank you.</p> <p>21 MS. TURNER: John, could you</p> <p>22 scroll up to the substance of that document.</p> <p>23 Can we go to the bottom email. Sorry. I don't</p> <p>24 know if it's getting cut off for people.</p> <p>25 Thank you.</p>	<p>187</p> <p>1 call in to speed up, and will be working on it</p> <p>2 Monday and Tuesday"? Is that what you're</p> <p>3 referring to?</p> <p>4 A. Yeah, I don't know whether that's</p> <p>5 about a call-in to Robert or a call-in with my</p> <p>6 partner. I have no idea what I was talking</p> <p>7 about.</p> <p>8 Q. What would you have been working</p> <p>9 on Monday and Tuesday?</p> <p>10 A. I don't know; I was on very little</p> <p>11 sleep.</p> <p>12 Q. You were what, I'm sorry?</p> <p>13 A. I was on very little sleep. It</p> <p>14 was a bad weekend; it was a very long weekend.</p> <p>15 Q. What were you referring to as far</p> <p>16 as a call-in to speed up?</p> <p>17 A. I have no idea. Maybe a call in</p> <p>18 to my partner, Saul, to see like -- I don't</p> <p>19 know. I have no idea.</p> <p>20 Q. Could you have been referring to</p> <p>21 speeding up a meeting with the board to approve</p> <p>22 the sublease?</p> <p>23 A. Maybe.</p> <p>24 Q. At this stage that was the last</p> <p>25 step and you took action --</p>
<p>186</p> <p>1 Q. Mr. Shamash, do you recognize this</p> <p>2 email from Mr. King?</p> <p>3 A. I don't recognize it.</p> <p>4 Q. Do you recall any of the events</p> <p>5 referenced in the email?</p> <p>6 A. Yes, the part above where someone</p> <p>7 had multiple hospital visits. I remember that</p> <p>8 weekend well.</p> <p>9 Q. I'm sorry to hear that.</p> <p>10 A. Oh, everyone was fine.</p> <p>11 Q. Do you recall Mr. King asking for</p> <p>12 advice for the board meeting on January 14th?</p> <p>13 A. I don't.</p> <p>14 Q. Mr. King, in this email Mr. King</p> <p>15 asks you to jump on a phone call to formulate a</p> <p>16 plan. Did you speak with him?</p> <p>17 A. I don't remember.</p> <p>18 MS. TURNER: John, if you could</p> <p>19 move up to the next email.</p> <p>20 Q. Mr. Shamash, do you recall your</p> <p>21 response on January 3rd, 2020?</p> <p>22 A. No, nor do I know who that call-in</p> <p>23 was with.</p> <p>24 Q. And, Mr. Shamash, you're referring</p> <p>25 to the statement, "Yes, we have a plan and a</p>	<p>188</p> <p>1 A. Yes.</p> <p>2 Q. -- in getting the sublease</p> <p>3 approved.</p> <p>4 A. Yeah.</p> <p>5 Q. Who would you have called to speed</p> <p>6 up that process?</p> <p>7 A. Probably called Kaled, but I don't</p> <p>8 imagine they would have sped it up for me.</p> <p>9 Q. If you needed something from the</p> <p>10 board, did you typically communicate with Kaled?</p> <p>11 A. You would reach out to Kaled. I</p> <p>12 don't imagine they would speed it up for me.</p> <p>13 It's very possible that I just was telling him,</p> <p>14 yeah, I'd make a call speed it up, knowing that</p> <p>15 it's set for January 14th. I don't remember.</p> <p>16 Q. You could have just been placating</p> <p>17 him?</p> <p>18 A. Could have been. I don't</p> <p>19 remember.</p> <p>20 Q. Was there someone at Kaled that</p> <p>21 you typically spoke with if you needed</p> <p>22 information or to talk to someone on the board?</p> <p>23 A. I know of Peter's email; I reach</p> <p>24 out to Peter Lehr on everything.</p> <p>25 Q. And how long has Peter been with</p>

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<p>1 Kaled, if you know?</p> <p>2 A. I don't know how long he's been</p> <p>3 with that company for.</p> <p>4 Q. How long has he been managing the</p> <p>5 building?</p> <p>6 A. Best part of the last decade.</p> <p>7 Q. Thank you.</p> <p>8 MS. TURNER: John, I have three</p> <p>9 more documents that are very similar, so I don't</p> <p>10 want to spend a ton of time on them, and</p> <p>11 hopefully we can quickly run through them, but</p> <p>12 they are documents 16, 17 and then Exhibit L,</p> <p>13 but we can start with document 16.</p> <p>14 THE TECHNICIAN: Stand by.</p> <p>15 THE WITNESS: Could I take time</p> <p>16 for a bathroom break; can I get five minutes?</p> <p>17 MS. TURNER: Nancy, could you</p> <p>18 remind us when the last break was. I want to</p> <p>19 give you a break, Mr. Shamash, but I'm also</p> <p>20 cognizant of Mr. Case and Mr. Margolis' time to</p> <p>21 question you.</p> <p>22 COURT REPORTER: Just give me a</p> <p>23 second.</p> <p>24 MR. HARRIS: If he needs to go to</p> <p>25 the restroom, he needs to go to the restroom.</p>	<p>189</p> <p>1 looked at was January 3rd. Do you know if you</p> <p>2 spoke with Mr. King between January 3rd and this</p> <p>3 email, January 7th?</p> <p>4 A. No.</p> <p>5 Q. Mr. Shamash, do you understand</p> <p>6 that, from this email, that CCMS, their current</p> <p>7 landlord turned off their elevator at their 31st</p> <p>8 Street clinic?</p> <p>9 A. I see it in the email.</p> <p>10 Q. Do you recall anything about CCMS</p> <p>11 and their situation with their lease at 31st</p> <p>12 Street?</p> <p>13 A. I don't.</p> <p>14 Q. You didn't know that the landlord</p> <p>15 was converting the use of the building and they</p> <p>16 were forced to find a new sublease and had to</p> <p>17 find one by December 31st?</p> <p>18 A. I don't -- the use hasn't changed</p> <p>19 still, for the record.</p> <p>20 Q. I'm sorry?</p> <p>21 MR. HARRIS: Answer the question.</p> <p>22 A. I don't.</p> <p>23 Q. Did you ever respond to this</p> <p>24 email, Mr. Shamash?</p> <p>25 A. I don't recall.</p>
<p>189</p> <p>1 COURT REPORTER: The last break</p> <p>2 was at 2:46. It's now 3:39.</p> <p>3 MS. TURNER: Do you want to take</p> <p>4 five minutes.</p> <p>5 THE VIDEOGRAPHER: Going off the</p> <p>6 record; the time is 15:39.</p> <p>7 (Recess taken.)</p> <p>8 THE VIDEOGRAPHER: We're back on</p> <p>9 the record. The time is 15:44.</p> <p>10 BY MS. TURNER:</p> <p>11 Q. Welcome back, Mr. Shamash. Before</p> <p>12 you left we were about to look at document 16.</p> <p>13 (Exhibit II marked for</p> <p>14 identification.)</p> <p>15 THE TECHNICIAN: Document 16 is on</p> <p>16 screen now. It is marked as Exhibit II.</p> <p>17 Q. Mr. Shamash, do you recognize this</p> <p>18 document?</p> <p>19 A. No.</p> <p>20 Q. Do you recall any of the events</p> <p>21 referenced in the document?</p> <p>22 A. Let me read it.</p> <p>23 (Witness reviewing document.)</p> <p>24 A. Done.</p> <p>25 Q. Mr. Shamash, the last email we</p>	<p>190</p> <p>1 Q. Did you ever advise Mr. King or</p> <p>2 Mr. Brooks to bring anything with them to the</p> <p>3 January 14th, 2020 interview?</p> <p>4 A. I don't recall. Generally you</p> <p>5 don't need to bring anything with you unless</p> <p>6 it's specifically requested.</p> <p>7 Q. Did you give Mr. King or</p> <p>8 Mr. Brooks any advice for the January 14th, 2020</p> <p>9 interview?</p> <p>10 A. Sure.</p> <p>11 Q. What was your advice?</p> <p>12 A. Be honest.</p> <p>13 MR. MARGOLIS: What did you say,</p> <p>14 Nigel? I'm sorry, I didn't hear you.</p> <p>15 THE WITNESS: Be honest.</p> <p>16 MR. MARGOLIS: Be honest, okay.</p> <p>17 A. Was there more advice? I don't</p> <p>18 recall.</p> <p>19 Q. Did you understand Mr. Brooks was</p> <p>20 anxious about the January 14th interview?</p> <p>21 A. No. In fact, I have never spoken</p> <p>22 to Mr. Brooks prior to him at that meeting.</p> <p>23 Q. Did you know Mr. Brooks was Black?</p> <p>24 A. No.</p> <p>25 MS. TURNER: Thank you, John. Can</p>
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<p>193</p> <p>1 we pull out document 17 real quick. 2 (Exhibit JJ marked for 3 identification.) 4 THE TECHNICIAN: Document 17 is on 5 screen. It is marked as Exhibit JJ. 6 MS. TURNER: Thank you, John. 7 Q. Mr. Shamash, if you'd like a 8 second to review, let me know when you're ready. 9 (Witness reviewing document.) 10 A. Okay. 11 Q. Mr. Shamash, do you recognize this 12 email from Mr. King -- 13 A. No. 14 Q. -- addressed to you on January 15 8th, 2020? 16 A. No. 17 Q. Do you recall any of the events 18 referenced in the email? 19 A. Do I recall the meeting? Yes, I 20 recall the meeting. 21 Q. Understood. 22 Do you recall Mr. King's attempts 23 to get advice from you for the January 14th, 24 2020 interview? 25 A. No.</p>	<p>195</p> <p>1 You're saying if they are informed of the 2 approval at the board meeting; is that what I 3 heard? 4 MS. TURNER: I'm sorry. I said if 5 they are not informed of the decision at the 6 board meeting, how quickly are they informed 7 after the meeting takes place? 8 A. After a vote. How long after the 9 vote, I don't know. 10 Q. Would a vote normally take place 11 at the interview? 12 A. I don't know. 13 Q. Have you ever been present for a 14 board vote on a sublease? 15 A. Not that I recall. 16 Q. How were your -- Oxford's former 17 subtenants approved? 18 A. They would go to board meetings 19 and present themselves, much like this one, and 20 then the Board of Directors would decide. Do 21 they vote in front of them? No, not typically, 22 but I don't recall. 23 Q. And would you attend, did you 24 attend those meetings with Oxford's subtenants? 25 A. I have no memory of doing so, but</p>
<p>194</p> <p>1 Q. Do you know who produced this 2 document? 3 A. No. 4 Q. I'll represent to you that your 5 attorney produced this in response to your 6 subpoena. 7 Did you respond to Mr. King's 8 January 8th email? 9 A. I don't know. 10 Q. If this sublease for CCMS had been 11 approved, would the board have informed 12 Mr. Brooks at the meeting? 13 MR. MARGOLIS: Objection. 14 A. I can't speak for the board. 15 Q. In your experience with past 16 subtenants that have been approved, does the 17 board typically inform the subtenant of the 18 approval at the board meeting? 19 A. I don't know. 20 Q. If subtenants aren't informed of 21 their approval at the board meeting, typically 22 how long does it take before they find out if 23 they're approved? 24 MR. CASE: Objection. 25 MR. HARRIS: Objection to form.</p>	<p>196</p> <p>1 I'm sure I have. 2 MS. TURNER: I think we're 3 finished with that, John. Next one is Exhibit 4 L. 5 Q. Mr. Shamash, please take a moment 6 to review. 7 (Witness reviewing document.) 8 Q. Mr. Shamash, do you recall this 9 email exchange with Mr. King? 10 A. I don't. 11 Q. Do you recall the events 12 referenced in the email exchange? 13 A. Yes. 14 MS. TURNER: John, if you could 15 just scroll to the bottom of the email. Thank 16 you. 17 Q. Mr. Shamash, Mr. King has now 18 asked you for advice for the January 14th, 2020 19 interview on three separate occasions. Did you 20 ever respond to him with advice before his 21 email? 22 A. I don't recall. 23 MS. TURNER: John, if you can 24 scroll up to the top. 25 Q. Mr. Shamash, what do you recall</p>

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<p>197</p> <p>1 about your response to Mr. King regarding the</p> <p>2 January 14th, 2020 interview?</p> <p>3 A. Can you repeat the question?</p> <p>4 Q. I believe I asked you a few</p> <p>5 questions ago if you recalled anything regarding</p> <p>6 the events referenced in this email. So now I'm</p> <p>7 asking what specifically in relation to your</p> <p>8 response do you recall?</p> <p>9 A. If I recall correctly, I told you</p> <p>10 that I answered that he should be truthful. And</p> <p>11 here, to the best of my knowledge, I thought he</p> <p>12 was being truthful. As I write, (as read):</p> <p>13 "I'll be there with you. The attorney who</p> <p>14 represented you represented a similar use. Just</p> <p>15 say you're the same thing, low traffic office</p> <p>16 use and you'll be fine. Just say you're the</p> <p>17 same as the location on Clinton Avenue and</p> <p>18 you'll be completely fine."</p> <p>19 As far as I know, that was him</p> <p>20 being truthful.</p> <p>21 Q. When you say the attorney who</p> <p>22 represented you represented a very similar use,</p> <p>23 who are you referring to?</p> <p>24 A. There was a previous tenant who</p> <p>25 was a community outreach person that used to own</p>	<p>199</p> <p>1 A. The broker certainly did, yes.</p> <p>2 Q. Do you have a document that shows</p> <p>3 Mr. King representing that counseling services</p> <p>4 were ancillary to office services?</p> <p>5 A. I don't know.</p> <p>6 Q. Again, in this email you've</p> <p>7 described the use as low traffic office use.</p> <p>8 Knowing what you know now about CCMS's services,</p> <p>9 do you think that's consistent with low traffic</p> <p>10 office use?</p> <p>11 MR. HARRIS: Objection to form.</p> <p>12 We don't know what he knows now about CCMS's</p> <p>13 services. That's an assumption from counsel.</p> <p>14 MS. TURNER: Based on what -- go</p> <p>15 ahead.</p> <p>16 MR. HARRIS: I'm saying, do you</p> <p>17 want to rephrase it or (indiscernible).</p> <p>18 MS. TURNER: I'll rephrase.</p> <p>19 Q. Based on what you learned at the</p> <p>20 January 14th, 2020 interview, do you think that</p> <p>21 CCMS's services are consistent with low traffic</p> <p>22 office use?</p> <p>23 A. Based on what he said at the</p> <p>24 interview, nothing was low traffic whatsoever.</p> <p>25 Q. Is 50 patients a day low traffic?</p>
<p>198</p> <p>1 one of the lower stores.</p> <p>2 Q. Do you remember what floor that</p> <p>3 was?</p> <p>4 A. I don't. I believe it was the</p> <p>5 lower floor, like 2, 3 or 4. It was one of the</p> <p>6 lower floors.</p> <p>7 Q. Do you recall when they owned</p> <p>8 those floors?</p> <p>9 A. Long time ago, like 20 years ago.</p> <p>10 Q. And in this email you're stating</p> <p>11 that community outreach company is the same as a</p> <p>12 nonprofit that provides counseling services?</p> <p>13 A. No, they didn't provide counseling</p> <p>14 services. They were an office use. What they</p> <p>15 did was they were a not-for-profit who provided</p> <p>16 community outreach, which is what we figured</p> <p>17 these guys were.</p> <p>18 Q. But you understood that CCMS</p> <p>19 provided counseling services because it was in</p> <p>20 the sublease?</p> <p>21 A. As I said, it's in the sublease</p> <p>22 but it was an ancillary use and they were just</p> <p>23 like their location in Clinton Avenue.</p> <p>24 Q. Did CCMS ever explicitly state</p> <p>25 that counseling was an ancillary use?</p>	<p>200</p> <p>1 A. I believe so, yes. Remember, this</p> <p>2 is 7500 square feet. We counted 14 rooms. 14</p> <p>3 rooms would equate to three people in a room</p> <p>4 over eight hours, approximately every day.</p> <p>5 That's low traffic.</p> <p>6 MS. TURNER: John, if we could now</p> <p>7 pull up the document that begins with COOP and</p> <p>8 ends with 322.</p> <p>9 THE TECHNICIAN: Stand by,</p> <p>10 counsel.</p> <p>11 (Exhibit KK marked for</p> <p>12 identification.)</p> <p>13 THE TECHNICIAN: COOP 322 is on</p> <p>14 the screen now. It is Exhibit KK.</p> <p>15 Q. Mr. Shamash, if you can just</p> <p>16 please take a second to review and let me know</p> <p>17 when you're ready.</p> <p>18 (Witness reviewing document.)</p> <p>19 Q. Are you ready?</p> <p>20 A. Yeah.</p> <p>21 Q. Mr. Shamash, do you recognize this</p> <p>22 document?</p> <p>23 A. I do not.</p> <p>24 Q. Have you ever seen it before?</p> <p>25 A. I have not.</p>

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<p>201</p> <p>1 Q. You know for sure that you've</p> <p>2 never seen it before?</p> <p>3 A. I've never seen that before. As</p> <p>4 far as I know, I haven't seen it before.</p> <p>5 Q. I'll represent to you that this</p> <p>6 document was produced by the defendants, the</p> <p>7 co-op.</p> <p>8 Having reviewed the document,</p> <p>9 Mr. Shamash, what do you understand it to be?</p> <p>10 A. Some kind of paraphrase of the</p> <p>11 meeting.</p> <p>12 Q. Would these possibly be the</p> <p>13 meeting minutes?</p> <p>14 A. I don't know what meeting minutes</p> <p>15 look like. I don't see anything that says the</p> <p>16 word "minutes" on there.</p> <p>17 Q. Do you know whether co-op boards</p> <p>18 record minutes or descriptions of meetings they</p> <p>19 hold?</p> <p>20 A. I'm not familiar with what minutes</p> <p>21 look like.</p> <p>22 Q. Do you know if co-op boards record</p> <p>23 descriptions of meetings they hold?</p> <p>24 A. I would say this is a paraphrase</p> <p>25 of the meeting. So if that refers to what</p>	<p>203</p> <p>1 was cc'd on this email?</p> <p>2 A. No.</p> <p>3 Q. Was Marc present at the board</p> <p>4 interview?</p> <p>5 A. I don't recall.</p> <p>6 MR. CASE: Excuse me, can you</p> <p>7 repeat that, the answer, please.</p> <p>8 THE WITNESS: I don't recall.</p> <p>9 Q. You don't recall exactly who was</p> <p>10 at the January 14th, 2020 interview?</p> <p>11 A. I don't recall.</p> <p>12 Q. Okay. Well let's read the second</p> <p>13 full sentence, starting with "In attendance</p> <p>14 were."</p> <p>15 A. (As read): "In attendance were</p> <p>16 Emory Brooks (prospective tenant), me, Nigel</p> <p>17 Shamash (owner of floors 7 and 8, realtor and</p> <p>18 landlord for prospective tenant), Joey Grill</p> <p>19 (owner of the 12 floor), Eric Doctormann (owner</p> <p>20 of the 12th floor), Maxime Touton and F. Michael</p> <p>21 Conte."</p> <p>22 Q. And just to clarify, Eric</p> <p>23 Doctormann is the owner of the 11th floor, based</p> <p>24 on this.</p> <p>25 A. Sure.</p>
<p>202</p> <p>1 minutes are, then these are minutes.</p> <p>2 Q. Mr. Shamash, if you can read</p> <p>3 the -- first, let me back up.</p> <p>4 Do you recognize any of the</p> <p>5 individuals that this email is addressed to or</p> <p>6 prepared by?</p> <p>7 A. Can you zoom in please.</p> <p>8 F. Michael Conte, it's from him.</p> <p>9 Q. And you recognize that name?</p> <p>10 A. I do know who Michael is, yes.</p> <p>11 Susan Rubin I don't know. Marc is</p> <p>12 at Hand Held Films, as we've gone over before.</p> <p>13 He's a lower floor tenant. And Peter Lehr is</p> <p>14 Peter Lehr.</p> <p>15 Q. Is it possible Susan Rubin works</p> <p>16 for Kaled as well?</p> <p>17 A. Yes.</p> <p>18 Q. And just for the record, Mr. Conte</p> <p>19 is a board member, or at the time was a board</p> <p>20 member for the co-op?</p> <p>21 A. I don't know who was on the board</p> <p>22 but he was at the meeting so I imagine he was a</p> <p>23 board member, yes. Or had a position on the</p> <p>24 board.</p> <p>25 Q. Do you know why Mr. Paturet, Marc,</p>	<p>204</p> <p>1 Q. Thank you.</p> <p>2 So Marc is not referenced as being</p> <p>3 in attendance?</p> <p>4 A. Looks like that.</p> <p>5 Q. Do you have any reason to believe</p> <p>6 that Marc was in attendance at the January 14th,</p> <p>7 2020 board interview?</p> <p>8 A. No, I don't remember him being</p> <p>9 there.</p> <p>10 Q. Moving on to the third paragraph,</p> <p>11 if you could start with the second sentence,</p> <p>12 "Mr. Brooks."</p> <p>13 A. "The meeting convened" -- "Mr.</p> <p>14 Brooks."</p> <p>15 Q. Yes.</p> <p>16 A. "Mr. Brooks confirmed that there</p> <p>17 would be 12 therapists on staff that would see</p> <p>18 about 50 patients a day, mostly children who</p> <p>19 would be accompanied by their caregiver. He</p> <p>20 also mentioned that this would only be one</p> <p>21 aspect of the patients viewed."</p> <p>22 Q. Mr. Shamash, is 50 patients a day</p> <p>23 consistent with the sublease application that</p> <p>24 CCMS completed?</p> <p>25 A. 50 multiplied by 12 is 600.</p>

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<p>205</p> <p>1 Q. I'm sorry, where is your math 2 coming from?</p> <p>3 A. There would be 12 therapists on 4 staff and they'd see about 50 patients a day. 5 12 multiplied by 50 is 600.</p> <p>6 Q. Mr. Shamash, is it possible that 7 consistent with the sublease application there 8 would be 50 patients total per day, not 9 multiplied by 12 therapists?</p> <p>10 A. That's an ambiguous sentence. I 11 read that as 12 multiplied by 50.</p> <p>12 Q. Mr. Shamash, is it physically 13 possible for 12 therapists to each see 50 14 patients per day?</p> <p>15 A. I don't know; I've never been to a 16 therapy office.</p> <p>17 Q. Do you think that doctors see 50 18 patients per day?</p> <p>19 MR. HARRIS: Objection to form. 20 Are these doctors, are these psychologists?</p> <p>21 A. Are these group meetings?</p> <p>22 Q. Excuse me?</p> <p>23 MR. HARRIS: You want to rephrase 24 or have him answer?</p> <p>25 MS. TURNER: I'm sorry, I didn't</p>	<p>207</p> <p>1 well as Monday through Friday. Mr. Brooks 2 confirmed that he does not employ security" -- 3 I'm sorry, "he does employ security guards. 4 Mr. Brooks went on to explain that some of his 5 clients are sent for anger management by the 6 criminal court, as well as an assortment of 7 other behavioral issues."</p> <p>8 Q. Mr. Shamash, is that consistent 9 with your recollection of what was discussed at 10 the January 14th, 2020 interview?</p> <p>11 A. Yes.</p> <p>12 Q. So, Mr. Shamash, Mr. Brooks 13 represented that CCMS would see patients on 14 Monday through Friday, as well as Saturdays, 15 correct?</p> <p>16 A. To the best of my knowledge, yes.</p> <p>17 Q. And this was consistent with what 18 CCMS represented in its sublease application?</p> <p>19 A. I guess. I guess. I'd have to 20 see the sublease application again, but I guess.</p> <p>21 Q. We can pull it up.</p> <p>22 A. Sure.</p> <p>23 THE TECHNICIAN: Which exhibit was 24 that, counsel?</p> <p>25 MS. TURNER: I'm looking. Hold</p>
<p>206</p> <p>1 hear Mr. Shamash's response.</p> <p>2 MR. HARRIS: You can answer.</p> <p>3 A. Are these group meetings?</p> <p>4 Q. Mr. Shamash, is it possible that 5 Mr. Brooks meant 12 therapists would see a total 6 of 50 patients per day, consistent with his 7 sublease application?</p> <p>8 A. It's possible.</p> <p>9 Q. Did Mr. Brooks ever state that 10 more than 50 patients per day --</p> <p>11 A. Yes.</p> <p>12 Q. -- would go to the premise?</p> <p>13 A. My memory is that the traffic was 14 extended in that meeting.</p> <p>15 Q. Mr. Shamash, how is it possible 16 that your memory is different than the meeting 17 minutes?</p> <p>18 MR. CASE: Object to form.</p> <p>19 Q. Mr. Shamash, if you could read the 20 next paragraph starting with "Various 21 questions."</p> <p>22 A. (As read): "Various questions 23 were presented to those in attendance. 24 Mr. Brooks went on to explain that the building 25 would be used to see patients on Saturday as</p>	<p>208</p> <p>1 on.</p> <p>2 Exhibit G. I believe it's the 3 third page.</p> <p>4 Q. Mr. Shamash, do you see next to 5 6D, days of week, CCMS represented they would be 6 providing services Monday through Saturday?</p> <p>7 A. Yes.</p> <p>8 Q. And while we're on this page, 9 Mr. Shamash, do you see that in response to 6A, 10 how many employees daily, CCMS represented 12 11 employees?</p> <p>12 A. Yes.</p> <p>13 Q. And next to 6B, how many customers 14 daily, CCMS represented 50 customers daily, 15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. And this is consistent with the, 18 we'll call it meeting description prepared by 19 Mr. Conte that we were just looking at, correct?</p> <p>20 A. Apart from the amount of 21 customers, as I said, the way that --</p> <p>22 Q. I asked if this sublease 23 application was consistent with the meeting 24 description that Mr. Conte prepared that --</p> <p>25 A. To which I responded that A, C and</p>

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<p>209</p> <p>1 D were consistent.</p> <p>2 Q. And you disagree that the 12</p> <p>3 therapists refers to the 12 employees in this</p> <p>4 sublease application and that the 50 customers</p> <p>5 daily refers to the 50 customers in the</p> <p>6 sublease?</p> <p>7 MR. HARRIS: Objection to form.</p> <p>8 You can answer.</p> <p>9 A. My opinion was at the meeting</p> <p>10 there was mentions of group therapy, to the best</p> <p>11 of my recollection.</p> <p>12 Q. Your opinion was that there were</p> <p>13 mentions of group therapy, or you actually heard</p> <p>14 that there was group therapy?</p> <p>15 A. Yes. I seem to remember there was</p> <p>16 a mention of group therapy.</p> <p>17 MS. TURNER: If we could go back</p> <p>18 to Exhibit KK. Thank you, John.</p> <p>19 Q. Mr. Shamash, if you could read the</p> <p>20 last two paragraphs beginning with "Those in</p> <p>21 attendance."</p> <p>22 A. "Those in attendance voted</p> <p>23 unanimously" --</p> <p>24 Q. I'm sorry, I meant the paragraph</p> <p>25 above.</p>	<p>211</p> <p>1 Q. Why would Mr. Conte represent that</p> <p>2 you voted not to approve the application as</p> <p>3 well?</p> <p>4 A. I don't know.</p> <p>5 Q. So you didn't put forth any vote</p> <p>6 on the application or express --</p> <p>7 A. I'm not a board member.</p> <p>8 Q. -- any concerns. I didn't ask you</p> <p>9 if you were a board member.</p> <p>10 A. Therefore I can't vote.</p> <p>11 Q. In the bylaws for the building are</p> <p>12 there some actions that shareholders can vote</p> <p>13 on?</p> <p>14 A. I don't know.</p> <p>15 Q. Mr. Shamash, why did you attend</p> <p>16 the interview instead of Mr. Tawil?</p> <p>17 A. Mr. Tawil is not of the greatest</p> <p>18 physical health, so I have to cover anything</p> <p>19 like that.</p> <p>20 Q. Would Mr. Tawil have a vote?</p> <p>21 A. No. He's not on the board.</p> <p>22 Q. Going back to the paragraph,</p> <p>23 "Those in attendance deliberated and reviewed</p> <p>24 and reiterated that this firm was not simply</p> <p>25 operating as an administrative office as we were</p>
<p>210</p> <p>1 A. (As read): "Those in attendance</p> <p>2 deliberated and reviewed and reiterated that the</p> <p>3 firm was not simply operating as an</p> <p>4 administrative office as we were told, but as an</p> <p>5 out-patient clinic as described in their</p> <p>6 application for tenancy (attached). Those in</p> <p>7 attendance voted unanimously not to approve the</p> <p>8 application. (Nigel Shamash voted not to</p> <p>9 approve the application as well)."</p> <p>10 Q. Mr. Shamash, what did Mr. Conte</p> <p>11 mean that you voted not to approve the</p> <p>12 application?</p> <p>13 A. I don't know. I'm not a board</p> <p>14 member.</p> <p>15 Q. Did, Mr. Shamash, at the January</p> <p>16 14th, 2020 interview, did you express any</p> <p>17 concern over approving the sublease?</p> <p>18 A. I'm not a board member.</p> <p>19 Q. Did you express any concern over</p> <p>20 approving the sublease?</p> <p>21 A. No. In fact, I tried to get it</p> <p>22 through. I offered, I said to Mr. Conte and</p> <p>23 company, let's try it for a year, for a year</p> <p>24 and, if I remember right, Mr. Brooks said no to</p> <p>25 that.</p>	<p>212</p> <p>1 told." Who told the board that CCMS was</p> <p>2 operating as an administrative office?</p> <p>3 A. I don't know. We've both seen the</p> <p>4 email that was written where we introduced them</p> <p>5 as an administrative office with ancillary</p> <p>6 counseling uses. You've seen that email. You</p> <p>7 showed it as an exhibit and that certainly said</p> <p>8 it as an introduction. So, I would say it was</p> <p>9 there. Who told me that? The broker.</p> <p>10 Q. Where in writing did the broker</p> <p>11 represent there was ancillary counseling</p> <p>12 services?</p> <p>13 A. Don't know.</p> <p>14 Q. And do you now understand that</p> <p>15 consistent with the sublease use, CCMS was</p> <p>16 operating a clinic, intending to operate a</p> <p>17 clinic at the premises?</p> <p>18 MR. HARRIS: Objection to form.</p> <p>19 You can answer.</p> <p>20 A. I understand now that what they</p> <p>21 were looking to do was inconsistent with what</p> <p>22 was presented to us prior to the meeting, yes.</p> <p>23 Q. But what was presented in the</p> <p>24 sublease application and sublease was consistent</p> <p>25 with providing counseling services, or a clinic?</p>

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<p>213</p> <p>1 A. No, I wasn't present for that.</p> <p>2 You're asking me personally. What I knew was</p> <p>3 that it was ancillary office space akin to --</p> <p>4 ancillary counseling space akin to their space</p> <p>5 in Brooklyn.</p> <p>6 Q. Was anything else -- and I think,</p> <p>7 John, you can put this document down, but we're</p> <p>8 going to still talk about the board interview.</p> <p>9 Was there anything else memorable</p> <p>10 that was discussed at the January 14th, 2020</p> <p>11 interview?</p> <p>12 MR. MARGOLIS: Objection.</p> <p>13 A. The entire thing was repeated by</p> <p>14 me to the broker on a phone call. That is the</p> <p>15 best record I have as to how that went down.</p> <p>16 Q. Well, we're making a record here</p> <p>17 today, while you're under oath. So while you're</p> <p>18 under oath, was there anything else important</p> <p>19 discussed at the January 14th, 2020 interview?</p> <p>20 A. No, that was the nature of the</p> <p>21 meeting.</p> <p>22 MR. HARRIS: Objection to form.</p> <p>23 When you say important, do you say anything that</p> <p>24 was talked about or anything important or</p> <p>25 anything that he remembers?</p>	<p>215</p> <p>1 A. Can you go down a little bit.</p> <p>2 As far as I can tell there was no</p> <p>3 mention of narcotics in there, but there was in</p> <p>4 the meeting.</p> <p>5 Q. Do you have any explanation for</p> <p>6 why Mr. Conte's meeting description varies so</p> <p>7 differently from your recollection of the</p> <p>8 January 14th, 2020 interview?</p> <p>9 A. No, I don't.</p> <p>10 MR. HARRIS: Objection to form.</p> <p>11 MR. CASE: Objection to form.</p> <p>12 Q. Was there anything else you recall</p> <p>13 that was discussed at the January 14th, 2020</p> <p>14 interview?</p> <p>15 A. No.</p> <p>16 Q. Mr. Shamash, do you recall a</p> <p>17 discussion at the January 14, 2020 interview of</p> <p>18 an incident that occurred in Monsey, New York?</p> <p>19 A. No.</p> <p>20 Q. There wasn't discussion at the</p> <p>21 January 14th, 2020 interview of an attack by a</p> <p>22 Black man on people of Jewish faith that</p> <p>23 occurred in Monsey, New York?</p> <p>24 A. I have no memory of anything like</p> <p>25 that.</p>
<p>214</p> <p>1 Q. Is there anything that you recall</p> <p>2 that was discussed at the January 14th, 2020</p> <p>3 interview that you recall, sitting here today</p> <p>4 under oath?</p> <p>5 A. Can we like be a little bit more</p> <p>6 exact? The nature of the meeting was, hey, how</p> <p>7 are you; it's going to be narcotics meetings.</p> <p>8 Fast forward to really uncomfortable meeting.</p> <p>9 That was the nature of the meeting that I</p> <p>10 remember.</p> <p>11 Q. In the meeting description</p> <p>12 prepared by Mr. Conte, was there any reference</p> <p>13 to narcotics or substance abuse counseling?</p> <p>14 A. In the meeting?</p> <p>15 Q. In the description we were just</p> <p>16 looking at. We can pull it back up.</p> <p>17 A. Go ahead, pull it up.</p> <p>18 MS. TURNER: John, can you pull up</p> <p>19 Exhibit KK.</p> <p>20 THE TECHNICIAN: Stand by,</p> <p>21 counsel. Exhibit KK on screen.</p> <p>22 A. Near the top.</p> <p>23 Q. Mr. Shamash, can you point me to</p> <p>24 where Mr. Conte's meeting description references</p> <p>25 narcotics or substance abuse?</p>	<p>216</p> <p>1 Q. None of the board members or other</p> <p>2 attendees to the January 14th, 2020 interview</p> <p>3 discussed this attack at the interview?</p> <p>4 A. I have no memory of this.</p> <p>5 Q. Did any of the board members</p> <p>6 express any concerns about the type of clients</p> <p>7 that would be coming to the premises to see</p> <p>8 CCMS?</p> <p>9 A. Yes, the second narcotics was</p> <p>10 mentioned. In fact, Mr. Brooks spoke quite a</p> <p>11 while. I remember him referencing that his</p> <p>12 customers were mostly children and mostly Asian.</p> <p>13 We didn't ask anything about that. That was all</p> <p>14 Mr. Brooks talking. It was a very uncomfortable</p> <p>15 meeting.</p> <p>16 Q. Uncomfortable because you lied to</p> <p>17 the board about the use?</p> <p>18 MR. HARRIS: Objection to form.</p> <p>19 Don't, don't. Objection to form. You can</p> <p>20 answer.</p> <p>21 A. I didn't lie.</p> <p>22 Q. Mr. Shamash, did Mr. Grill or any</p> <p>23 of the other board members express concern about</p> <p>24 clients of CCMS using the elevators with</p> <p>25 Mr. Grill's models?</p>

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<p>217</p> <p>1 A. I don't recall.</p> <p>2 Q. Just for the record, was</p> <p>3 Mr. Brooks the only Black person in the January</p> <p>4 14th, 2020 interview?</p> <p>5 A. I don't recall.</p> <p>6 Q. You don't remember what people</p> <p>7 looked like?</p> <p>8 A. No, I don't remember the makeup of</p> <p>9 everyone who was there. As far as I know, he</p> <p>10 may have been the only person of African</p> <p>11 American descent, but I'm not sure. But you're</p> <p>12 saying Black; I don't know. I don't think so.</p> <p>13 I think he was the only one.</p> <p>14 Q. Did the subject of Mr. Brooks or</p> <p>15 anyone else's race come up at the interview?</p> <p>16 Race or ethnicity?</p> <p>17 A. No. The only mention of race or</p> <p>18 ethnicity was Mr. Brooks mentioning the majority</p> <p>19 of his customers were Asian. It was not asked</p> <p>20 of him; he just stated it.</p> <p>21 Q. But you understood that CCMS's</p> <p>22 patients come from diverse backgrounds?</p> <p>23 A. I had no understanding at all,</p> <p>24 but -- no.</p> <p>25 Q. Did you walk Mr. Brooks out once</p>	<p>219</p> <p>1 I've never spoken to him before the meeting,</p> <p>2 never met him before the meeting, and I didn't</p> <p>3 train him per se on this meeting.</p> <p>4 I understood him to be an office</p> <p>5 use with an ancillary counseling space, and the</p> <p>6 meeting became a office use -- a narcotics</p> <p>7 counseling space with ancillary office. If I</p> <p>8 remember right from the conversation, we went</p> <p>9 from the majority of the space being offices to</p> <p>10 only two offices and the rest of the space being</p> <p>11 counseling. That's in the recording. It was</p> <p>12 very uncomfortable.</p> <p>13 Q. After Mr. Brooks left the</p> <p>14 interview, did you stay back and discuss the</p> <p>15 sublease with the board members?</p> <p>16 A. I have no memory of that</p> <p>17 whatsoever. I remember it ending, him leaving,</p> <p>18 me waiting for him to be out of my sight, and</p> <p>19 then me leaving immediately after.</p> <p>20 (Reporter clarification.)</p> <p>21 Q. But you don't have any memory of</p> <p>22 having conversations with the board about</p> <p>23 approving the sublease or rejecting the</p> <p>24 sublease?</p> <p>25 A. No.</p>
<p>218</p> <p>1 the interview was finished?</p> <p>2 A. No.</p> <p>3 Q. Why not?</p> <p>4 A. Because it was the most</p> <p>5 humiliating, uncomfortable meeting of my career</p> <p>6 and I just wanted it to end.</p> <p>7 Q. Why was it humiliating?</p> <p>8 A. Because at the very introduction</p> <p>9 he said he was a narcotics use, and then I just</p> <p>10 had to sit there and everyone had to go through</p> <p>11 a meeting with this individual. It was very</p> <p>12 uncomfortable.</p> <p>13 Q. Did you try to clarify with</p> <p>14 Mr. Brooks that substance abuse counseling would</p> <p>15 not take place at the premises per the sublease?</p> <p>16 A. It's pretty hard to bring that</p> <p>17 back, especially as he was very verbal, and it's</p> <p>18 not my place.</p> <p>19 Q. But I thought you wanted to get</p> <p>20 the sublease approved?</p> <p>21 A. Absolutely. Hence why I said</p> <p>22 let's try to get this for a year on a trial</p> <p>23 basis, for which he objected to. But it's not</p> <p>24 my place to correct him on his views or his</p> <p>25 running of his business. That's who he is.</p>	<p>220</p> <p>1 Q. But you previously stated this was</p> <p>2 the most humiliating meeting of your entire life</p> <p>3 that you remember so vividly, but you don't</p> <p>4 remember those conversations?</p> <p>5 A. Well, it's a pretty foregone</p> <p>6 conclusion at --</p> <p>7 MR. HARRIS: Objection to form.</p> <p>8 You can answer,</p> <p>9 A. It's a foregone conclusion at that</p> <p>10 point. It was a horrible meeting; it went</p> <p>11 terribly.</p> <p>12 MS. TURNER: John, if you can pull</p> <p>13 up the document beginning with CCMS, ending in</p> <p>14 275.</p> <p>15 THE TECHNICIAN: Stand by,</p> <p>16 counsel.</p> <p>17 (Exhibit LL marked for</p> <p>18 identification.)</p> <p>19 THE TECHNICIAN: That document is</p> <p>20 on screen now. It is marked as Exhibit LL.</p> <p>21 MS. TURNER: Thank you.</p> <p>22 Q. Mr. Shamash, please take a moment</p> <p>23 to review this and then let me know when you're</p> <p>24 ready to discuss.</p> <p>25 (Witness reviewing document.)</p>

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<p>221</p> <p>1 THE WITNESS: Can I ask a</p> <p>2 question?</p> <p>3 MR. HARRIS: You can't ask</p> <p>4 questions. She asks the questions.</p> <p>5 A. Okay.</p> <p>6 Q. Mr. Shamash, do you recognize this</p> <p>7 email exchange?</p> <p>8 A. I do not. I'm not on it.</p> <p>9 Q. Do you recall any of the events</p> <p>10 referenced in this email exchange?</p> <p>11 A. I do not.</p> <p>12 Q. Is this the first time you're</p> <p>13 seeing this email exchange?</p> <p>14 A. It is.</p> <p>15 Q. Do you know why Mr. Tawil would</p> <p>16 have told Mr. King "Your tenant's rep was an</p> <p>17 idiot"?</p> <p>18 A. I don't.</p> <p>19 Q. Does he often use that type of</p> <p>20 language, Mr. Tawil?</p> <p>21 A. Yes. He's a colorful individual.</p> <p>22 Q. Is it professional to refer to</p> <p>23 potential tenants as idiots?</p> <p>24 MR. MARGOLIS: Objection.</p> <p>25 MR. HARRIS: Objection. You can</p>	<p>223</p> <p>1 at all.</p> <p>2 A. That's inaccurate, correct. It's</p> <p>3 inaccurate.</p> <p>4 MR. MARGOLIS: Tara, you might</p> <p>5 want to rephrase that.</p> <p>6 MS. TURNER: Thanks, Barry.</p> <p>7 Q. Was what CCMS represented to</p> <p>8 Oxford in the sublease, that Oxford agreed to,</p> <p>9 in the sublease application that was submitted</p> <p>10 to Kaled, consistent with what was represented</p> <p>11 to the Board on January 14th, 2020?</p> <p>12 MR. HARRIS: Objection to form.</p> <p>13 What's in the sublease application and what's in</p> <p>14 the use for the lease are different. They're</p> <p>15 different uses in there, they conflict with each</p> <p>16 other. So which one are you referring to? Just</p> <p>17 referring to that, because you're putting it all</p> <p>18 into one...</p> <p>19 MS. TURNER: You're testifying for</p> <p>20 the client.</p> <p>21 Q. Mr. Shamash, can you just answer</p> <p>22 the question? Nancy can read it back if you</p> <p>23 need her to.</p> <p>24 MR. HARRIS: Read it back. I'm</p> <p>25 objecting to form.</p>
<p>222</p> <p>1 answer.</p> <p>2 A. I think we've qualified that</p> <p>3 Saul's emails are always very colorful.</p> <p>4 Q. Would you have referred to</p> <p>5 Mr. Brooks as an idiot?</p> <p>6 MR. HARRIS: Objection to form.</p> <p>7 You can answer.</p> <p>8 A. I don't think he was an idiot.</p> <p>9 Q. Well, what do you think of</p> <p>10 Mr. Brooks?</p> <p>11 A. I think that he presented himself</p> <p>12 in an honest manner to the board, but that was</p> <p>13 not what was presented to us as what the use</p> <p>14 was.</p> <p>15 Q. And who's the "us" you're</p> <p>16 referring to?</p> <p>17 A. You know what, the "us" is me,</p> <p>18 okay. What he presented to the Board was not</p> <p>19 presented to me as to what the use was.</p> <p>20 Q. But it was consistent with what he</p> <p>21 presented to Oxford, Kaled and the Board?</p> <p>22 MR. HARRIS: Objection to form.</p> <p>23 That's not --</p> <p>24 MR. MARGOLIS: Objection.</p> <p>25 MR. HARRIS: That's not accurate</p>	<p>224</p> <p>1 (The following question was read:</p> <p>2 "Was what CCMS represented to Oxford in the</p> <p>3 sublease, that Oxford agreed to, in the sublease</p> <p>4 application that was submitted to Kaled,</p> <p>5 consistent with what was represented to the</p> <p>6 Board on January 14th, 2020?")</p> <p>7 A. Are you referencing board, the --</p> <p>8 Q. We'll take them one at a time.</p> <p>9 We'll take them one at a time.</p> <p>10 A. Okay.</p> <p>11 Q. Was what CCMS agreed to, CCMS and</p> <p>12 Oxford agreed to in the sublease, the use for</p> <p>13 the premises, consistent with what was</p> <p>14 represented to the board on January 14th, 2020?</p> <p>15 A. No.</p> <p>16 Q. And what's your basis for that</p> <p>17 response?</p> <p>18 A. Well, he immediately went into</p> <p>19 narcotics counseling.</p> <p>20 Q. And is that reflected in the</p> <p>21 meeting description that Mr. Conte prepared?</p> <p>22 A. I guess not.</p> <p>23 Q. Did Mr. Conte have any reason to</p> <p>24 leave that out of the meeting description?</p> <p>25 MR. HARRIS: Objection to form.</p>

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<p>225</p> <p>1 MR. CASE: Objection.</p> <p>2 A. I can't speak for him.</p> <p>3 Q. Was what CCMS represented in its</p> <p>4 sublease application consistent with what</p> <p>5 Mr. Brooks represented at the January 14, 2020</p> <p>6 interview?</p> <p>7 A. No.</p> <p>8 Q. How was it inconsistent?</p> <p>9 A. He mentioned narcotics counseling</p> <p>10 the moment that meeting started.</p> <p>11 Q. Was it consistent based on the</p> <p>12 number of employees, the number of daily</p> <p>13 patients and the type of counseling that was</p> <p>14 going to be conducted?</p> <p>15 A. I don't believe so, no.</p> <p>16 Q. And the only thing you believe</p> <p>17 that was inconsistent was you claim he</p> <p>18 referenced narcotics or substance abuse</p> <p>19 counseling?</p> <p>20 MR. CASE: Object to form.</p> <p>21 Misstates his testimony.</p> <p>22 A. No, it's not the only --</p> <p>23 MR. HARRIS: Did you want to</p> <p>24 rephrase or do you want him to answer the</p> <p>25 question?</p>	<p>227</p> <p>1 A. No.</p> <p>2 Q. I'll represent to you that your</p> <p>3 attorney -- actually, hold on. Sorry, I'm</p> <p>4 looking at the wrong document. One moment.</p> <p>5 MS. TURNER: Could we pull up</p> <p>6 document 10, please.</p> <p>7 THE TECHNICIAN: Stand by,</p> <p>8 counsel.</p> <p>9 MS. TURNER: Sorry about that</p> <p>10 everyone.</p> <p>11 (Exhibit NN marked for</p> <p>12 identification.)</p> <p>13 THE TECHNICIAN: Document 10 is on</p> <p>14 screen now, marked as Exhibit NN.</p> <p>15 Q. Mr. Shamash, could you take a</p> <p>16 second to review. Let me know when you're ready</p> <p>17 to discuss.</p> <p>18 MR. HARRIS: You'll have to zoom</p> <p>19 in a little more, I'm sorry.</p> <p>20 (Witness reviewing document.)</p> <p>21 A. You're going to have to zoom out a</p> <p>22 little bit, I can't read.</p> <p>23 MR. HARRIS: Can you move to the</p> <p>24 right, actually? Is that possible?</p> <p>25 (Witness reviewing document.)</p>
<p>226</p> <p>1 Q. How was Mr. Brooks' representation</p> <p>2 of the January 14th, 2020 interview different</p> <p>3 from what he represented in the sublease</p> <p>4 application?</p> <p>5 A. Narcotics use, traffic,</p> <p>6 ancillary --</p> <p>7 Q. How is the traffic different?</p> <p>8 A. In my opinion he was saying a lot</p> <p>9 more than 50 people. And finally, ancillary</p> <p>10 versus office, very much different.</p> <p>11 Q. Understood.</p> <p>12 MS. TURNER: John, could we pull</p> <p>13 up a document beginning in CCMS, ending in 020.</p> <p>14 THE TECHNICIAN: Stand by,</p> <p>15 counsel.</p> <p>16 (Exhibit MM marked for</p> <p>17 identification.)</p> <p>18 THE TECHNICIAN: That document is</p> <p>19 on screen now. It is marked as Exhibit MM.</p> <p>20 Q. Mr. Shamash, do you want to take a</p> <p>21 second to review it and let me know when you're</p> <p>22 ready.</p> <p>23 (Witness reviewing document.)</p> <p>24 A. Yes.</p> <p>25 Q. Do you recognize this email?</p>	<p>228</p> <p>1 Q. Mr. Shamash, do you recognize</p> <p>2 these documents?</p> <p>3 A. No. Nor do I know who Kenneth</p> <p>4 Friedman is. I see at the bottom it says</p> <p>5 attorneys for CCMS. I have no memory of that.</p> <p>6 Q. I'll represent to you that your</p> <p>7 attorney produced them in response to your</p> <p>8 subpoena.</p> <p>9 If we can go to page, the first</p> <p>10 page, the bottom half of the first page.</p> <p>11 Actually, I'm sorry, John, can we go to the</p> <p>12 fourth page in the middle.</p> <p>13 THE TECHNICIAN: One moment,</p> <p>14 counsel.</p> <p>15 MS. TURNER: Thank you.</p> <p>16 Q. I'm sorry, Mr. Shamash, did you</p> <p>17 say that you don't recognize these documents at</p> <p>18 all?</p> <p>19 A. No.</p> <p>20 Q. Having read them, do you have any</p> <p>21 recollection of the events they're referring to?</p> <p>22 A. No. That's legalese stuff between</p> <p>23 lawyers. I just leave it to them.</p> <p>24 Q. Okay. Following the January 14,</p> <p>25 2020 interview, did you have any contact with</p>

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<p>229</p> <p>1 Mr. Brooks or anyone else at CCMS?</p> <p>2 A. No.</p> <p>3 Q. Did you have any, after the</p> <p>4 January 14th, 2020 interview in your</p> <p>5 subsequently recorded call that you've referred</p> <p>6 to many times, did you have any additional</p> <p>7 contact with Mr. Bob King?</p> <p>8 A. Not that I remember.</p> <p>9 Q. If you could read -- actually, in</p> <p>10 this letter which you produced back to us, was</p> <p>11 received by your attorney, and it states, "The</p> <p>12 documentary record here makes clear, however,</p> <p>13 that CCMS did not intend to and would not</p> <p>14 provide substance abuse counseling at the</p> <p>15 premises. The occupancy provision of the</p> <p>16 sublease (copy attached, in pertinent part)</p> <p>17 expressly excluded substance abuse counseling.</p> <p>18 Likewise, in CCMS's administrative application</p> <p>19 to the New York State Office of Mental Health to</p> <p>20 license new space at the premises (copy</p> <p>21 attached, in pertinent part), the description of</p> <p>22 the program CCMS would operate at the premises</p> <p>23 does not include substance abuse treatment."</p> <p>24 Do you understand what that means,</p> <p>25 Mr. Shamash?</p>	<p>231</p> <p>1 attorneys. As mentioned, I don't know who</p> <p>2 Kenneth Friedman is. I think he's one of the</p> <p>3 attorneys. And Stacy Simmons also I imagine is</p> <p>4 one of the attorneys. And of course I recognize</p> <p>5 Etan's email. He's my attorney.</p> <p>6 Q. And you were cc'd on Etan's</p> <p>7 response to this letter?</p> <p>8 A. Sure, yeah.</p> <p>9 Q. And in the body of the email can</p> <p>10 you please read for me what Etan wrote starting</p> <p>11 with "The issue we have."</p> <p>12 A. "The issue we have is that CCMS's</p> <p>13 representative expressly stated that during a</p> <p>14 nearly hour-long board meeting that it would be</p> <p>15 conducting substance abuse counseling on the</p> <p>16 premises. Your letter, although identifying the</p> <p>17 issue, does not deny this fact."</p> <p>18 Q. And is it -- I'm sorry?</p> <p>19 A. Okay.</p> <p>20 Q. So, is it your position that the</p> <p>21 sublease was rejected because Mr. Brooks</p> <p>22 insisted on substance abuse counseling?</p> <p>23 A. I'm not on the board.</p> <p>24 MR. HARRIS: Objection to form.</p> <p>25 You can answer.</p>
<p>230</p> <p>1 A. No.</p> <p>2 Q. Did your attorney inform you that</p> <p>3 CCMS had sent a letter explaining that substance</p> <p>4 abuse counseling was not being provided at the</p> <p>5 premises?</p> <p>6 MR. HARRIS: Objection. Don't</p> <p>7 answer. It's attorney-client privilege.</p> <p>8 Q. Did you know that CCMS had</p> <p>9 represented, after the January 14th, 2020</p> <p>10 interview, that it would not conduct substance</p> <p>11 abuse counseling at the premises?</p> <p>12 A. I don't recall.</p> <p>13 Q. Can we go back up to page 1 that</p> <p>14 we were looking at before, the bottom of page 1.</p> <p>15 Mr. Shamash, can you let me know</p> <p>16 which email addresses you recognize in the</p> <p>17 address portion of this email.</p> <p>18 A. I recognize my email, ns@5cre. I</p> <p>19 recognize Robert King and Saul. The cameras --</p> <p>20 I can't see what's to the right of Saul because</p> <p>21 of the system. You have to zoom out. There you</p> <p>22 go.</p> <p>23 So, nothing to the right of Saul.</p> <p>24 I recognize Emory Brooks's email. I don't know</p> <p>25 who DLee is. I imagine she's one of the</p>	<p>232</p> <p>1 A. I'm not on the board. I don't</p> <p>2 know why it was refused.</p> <p>3 Q. But in your opinion, one of the</p> <p>4 issues was that --</p> <p>5 A. As --</p> <p>6 MR. HARRIS: Let her finish the</p> <p>7 question, Nigel.</p> <p>8 Reask the question, please.</p> <p>9 Q. In your opinion one of the issues</p> <p>10 and one of the reasons CCMS's sublease may have</p> <p>11 been rejected was because Mr. Brooks insisted on</p> <p>12 substance abuse counseling?</p> <p>13 A. Yes.</p> <p>14 Q. And do you now know that</p> <p>15 Mr. Brooks legally could not have performed</p> <p>16 substance abuse counseling at the premises?</p> <p>17 MR. CASE: Object to form.</p> <p>18 A. Yes. I know because of you</p> <p>19 telling me that.</p> <p>20 MR. HARRIS: Objection to form.</p> <p>21 Q. At the time your attorney received</p> <p>22 this letter and you were cc'd on this email, did</p> <p>23 you attempt to reach out to Mr. King or</p> <p>24 Mr. Brooks?</p> <p>25 A. No.</p>

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<p>233</p> <p>1 Q. Why not?</p> <p>2 A. It was the most uncomfortable,</p> <p>3 humiliating meeting of my life and I wanted to</p> <p>4 put it behind me.</p> <p>5 Q. You just wanted to wipe your hands</p> <p>6 of it?</p> <p>7 MR. HARRIS: Objection to form.</p> <p>8 MR. CASE: Object to form.</p> <p>9 A. As opposed to what?</p> <p>10 Q. Well, Mr. Shamash, you spent a lot</p> <p>11 of time talking about Mr. Tawil's desire to get</p> <p>12 the sublease approved, Mr. King's desire to get</p> <p>13 the sublease approved, your desire to get the</p> <p>14 sublease approved; and then all of a sudden we</p> <p>15 have the board meeting and the sublease is</p> <p>16 rejected and you have no desire to...</p> <p>17 A. I always have the desire to have</p> <p>18 tenants in my building, but you're not going to</p> <p>19 get someone approved if they're a narcotics use</p> <p>20 inside of my office building.</p> <p>21 Q. But in this letter from Mr. Brooks</p> <p>22 and CCMS's attorney, they're representing that</p> <p>23 there was no possible way they could perform</p> <p>24 substance abuse counseling at the premises and</p> <p>25 that this had been agreed upon and was in the</p>	<p>235</p> <p>1 viewed. No idea.</p> <p>2 Q. Have you, in connection with the</p> <p>3 premises, since January 2020, have you taken any</p> <p>4 next steps with a prospective tenant, exchanged</p> <p>5 a term sheet, prepared a sublease or anything?</p> <p>6 A. I've not received a term sheet on</p> <p>7 the premises.</p> <p>8 Q. Understood.</p> <p>9 While Oxford was negotiating the</p> <p>10 sublease with CCMS, did Oxford have any other</p> <p>11 prospective tenants interested in the premises?</p> <p>12 A. Not that I know of.</p> <p>13 Q. In your opinion as a former broker</p> <p>14 and someone who has their broker license, why</p> <p>15 are the premises still empty?</p> <p>16 A. I think office space has a long</p> <p>17 way to go. 50,000 square feet of offices is</p> <p>18 very hard to rent. The pandemic took a lot of</p> <p>19 that out, a lot of that product out. There's</p> <p>20 just not many offices of that size.</p> <p>21 Q. I've got a few quick documents.</p> <p>22 MS. TURNER: John, if you can pull</p> <p>23 up document 18.</p> <p>24 THE TECHNICIAN: Stand by,</p> <p>25 counsel.</p>
<p>234</p> <p>1 sublease.</p> <p>2 A. Once again, I'm in the board --</p> <p>3 I'm not the board, rather, so I can't speak as</p> <p>4 to the reason why the board, exclusive reason as</p> <p>5 to why the board has rejected. This is one of</p> <p>6 the reasons why, but I do not believe we were in</p> <p>7 a position to request another meeting.</p> <p>8 Q. Did the board give you any reasons</p> <p>9 for why it rejected the sublease?</p> <p>10 A. I don't recall.</p> <p>11 Q. Mr. Shamash, I'm really circling</p> <p>12 up here.</p> <p>13 After CCMS's sublease was denied,</p> <p>14 did you try to re-rent the premises?</p> <p>15 A. Of course.</p> <p>16 Q. Since January 2020, how many</p> <p>17 prospective tenants have viewed the space, the</p> <p>18 premises?</p> <p>19 A. I have no idea.</p> <p>20 Q. Can you put an estimate?</p> <p>21 A. No. As mentioned to you</p> <p>22 previously, you get emails from a broker to ask</p> <p>23 if it's still available, and you tell them to go</p> <p>24 straight to the building. I have no</p> <p>25 interactions as to how many times it's been</p>	<p>236</p> <p>1 (Exhibit OO marked for</p> <p>2 identification.)</p> <p>3 THE TECHNICIAN: Document 18 is on</p> <p>4 screen now. It is marked as Exhibit OO.</p> <p>5 Q. Mr. Shamash, please take a second</p> <p>6 to review and let me know when you're ready.</p> <p>7 (Witness reviewing document.)</p> <p>8 Q. Mr. Shamash, do you recognize this</p> <p>9 email?</p> <p>10 A. No.</p> <p>11 Q. Are you cc'd on it or is it</p> <p>12 addressed to you?</p> <p>13 A. It's addressed to Peter, but I'm</p> <p>14 in the "to" line along with Saul.</p> <p>15 Q. And who drafted the email?</p> <p>16 A. Etan Harris.</p> <p>17 Q. What's the date of the email?</p> <p>18 A. Wednesday, the 12th of February</p> <p>19 2020.</p> <p>20 Q. Do you recall your attorney</p> <p>21 requesting a copy of the board minutes --</p> <p>22 A. No.</p> <p>23 Q. -- for the January 14, 2020</p> <p>24 interview?</p> <p>25 A. No.</p>

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<p style="text-align: right;">237</p> <p>1 Q. Why would your attorney have 2 requested a copy of the board minutes on 3 February 12th, 2020? 4 MR. HARRIS: Objection to form. 5 A. You have to speak to him about 6 that. 7 Q. Did you direct him to request a 8 copy of the board minutes? 9 MR. HARRIS: Objection. 10 MR. CASE: Object to form. 11 MR. HARRIS: Privileged. Don't 12 answer. 13 MS. TURNER: I'm sorry, I didn't 14 hear what you said, Etan. 15 MR. HARRIS: I'm directing him not 16 to answer. That's attorney-client privilege. 17 MS. TURNER: Etan, you produced 18 this document. 19 MR. HARRIS: I understand I 20 produced the document. You're asking if he 21 directed me to do this, and I'm saying that's 22 attorney-client privilege. You're asking for 23 our conversations outside of this document. 24 He's not going to answer it. 25 MS. TURNER: Okay.</p>	<p style="text-align: right;">239</p> <p>1 A. No. 2 Q. Do you recall any of the events 3 referenced in the email? 4 A. No. 5 Q. Do you see that -- do you know who 6 Jacqueline Mengel is? 7 A. No. 8 Q. Based on her email address, is it 9 likely that she works for Kaled? 10 A. Yeah, but I don't know her. 11 Q. Understood. 12 MS. TURNER: John, if you could 13 scroll up to the top of the email. 14 Q. Mr. Shamash, do you know why Marc 15 Paturet is approving flu protocols for the 16 building? 17 A. I don't, and I don't know why I'm 18 on that emailed cc'd just with Peter. I've got 19 to imagine everyone is bcc'd and I was a cc. I 20 have no idea. 21 Q. And this doesn't relate at all to 22 the dispute that's at issue there? 23 A. No. 24 Q. And was it normal for Marc to cc 25 you on administrative emails for the building?</p>
<p style="text-align: right;">238</p> <p>1 Q. Mr. Shamash, do you know if your 2 attorney received a copy of the board minutes? 3 A. I don't know. 4 Q. And is it still your testimony 5 that you've never seen a copy of the board 6 minutes until today? 7 A. Yes. 8 Q. Do you know if Peter Lehr 9 responded to your attorney's email? 10 A. I do not. 11 MS. TURNER: John, can we move on 12 to document 27. 13 THE TECHNICIAN: Stand by, 14 counsel. 15 (Exhibit PP marked for 16 identification.) 17 THE TECHNICIAN: Document 27 is on 18 screen now. It is marked as Exhibit PP. 19 Q. Mr. Shamash, can you take a second 20 to review this? 21 A. Um-hum. 22 Q. Let me know when you're ready. 23 MR. HARRIS: You can scroll down. 24 (Witness reviewing document.) 25 Q. Do you recognize this email?</p>	<p style="text-align: right;">240</p> <p>1 MR. CASE: Object to form. 2 A. Those are just emails that I mark 3 as read. I don't even open them. I can't tell 4 you. 5 Q. But you produced this document? 6 THE WITNESS: Did I? 7 MR. HARRIS: I, counsel, produced 8 the document as responsive to the subpoena, with 9 the production of my letter, or objection. 10 MS. TURNER: That is all I have 11 for now. Thank you, Mr. Shamash. 12 THE WITNESS: Thank you. 13 MR. HARRIS: Barry, Michael, you 14 guys have anything? 15 MR. MARGOLIS: Can we take five? 16 MR. HARRIS: Yes. Thank you. 17 THE VIDEOGRAPHER: We're going off 18 the record. The time is 16:52. 19 (Recess taken.) 20 THE VIDEOGRAPHER: We're back on 21 the record. The time is 16:57. 22 MR. MARGOLIS: I have no questions 23 for Mr. Shamash. 24 MR. HARRIS: Michael? 25 MR. CASE: Yes.</p>

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<p>241</p> <p>1 EXAMINATION BY MR. CASE:</p> <p>2 Q. Mr. Shamash, my name is Michael</p> <p>3 Case. I'm representing defendant Marc Paturet</p> <p>4 here. I just have a couple of quick questions.</p> <p>5 I'd like to ask whoever is</p> <p>6 handling the documents, I guess it's going to be</p> <p>7 John, right? Can you pull up document 21.</p> <p>8 THE TECHNICIAN: Stand by,</p> <p>9 counsel.</p> <p>10 MR. HARRIS: You should know,</p> <p>11 Michael, that in your Zoom here your</p> <p>12 (indiscernible). I don't know why. We see you</p> <p>13 but you're like a still for some reason.</p> <p>14 MR. CASE: Okay. Sorry about</p> <p>15 that, I'm not quite sure what the problem is.</p> <p>16 It's something about -- I have to talk to my</p> <p>17 service provider. Anyway, you can hear me,</p> <p>18 though, right?</p> <p>19 MR. HARRIS: Oh, yeah.</p> <p>20 (Exhibit QQ marked for</p> <p>21 identification.)</p> <p>22 THE TECHNICIAN: Document 21 is on</p> <p>23 screen, marked as Exhibit QQ.</p> <p>24 MR. CASE: QQ, okay, thank you.</p> <p>25 ///</p>	<p>243</p> <p>1 answer.</p> <p>2 A. At the time I likely knew who the</p> <p>3 president is. Now I do not know who the</p> <p>4 president was or is.</p> <p>5 Q. Can you tell me the name of the</p> <p>6 individual that you're referring to there when</p> <p>7 you used the term "president"?</p> <p>8 A. I don't. I don't know who I was</p> <p>9 referring to.</p> <p>10 Q. Did you speak with my client, Marc</p> <p>11 Paturet, at any time in December of 2019?</p> <p>12 A. I don't believe so.</p> <p>13 Q. If I asked you the same question</p> <p>14 about November of 2019, would your answer be the</p> <p>15 same?</p> <p>16 A. I don't believe so. I do not</p> <p>17 believe that I've spoken to him more than once</p> <p>18 in my life.</p> <p>19 Q. Okay. Can you recall generally</p> <p>20 about when that was that you --</p> <p>21 A. I remember at one point he</p> <p>22 presented an offer to buy my building, but we</p> <p>23 were not close on terms whatsoever. That's my</p> <p>24 interaction with him that I remember. When was</p> <p>25 it, I don't know. I don't know whether it was</p>
<p>242</p> <p>1 BY MR. CASE:</p> <p>2 Q. Mr. Shamash, take a look at what's</p> <p>3 been marked as Exhibit QQ, and I'll just ask you</p> <p>4 whether or not that's an email that you authored</p> <p>5 on or about December 23 of 2019? At least the</p> <p>6 first one on the page.</p> <p>7 MR. HARRIS: Can we see the next</p> <p>8 email down. Can you go back to the top? I</p> <p>9 don't know if he finished reading the first one.</p> <p>10 THE WITNESS: "Sheltering arms."</p> <p>11 MR. HARRIS: Don't answer</p> <p>12 questions. Read it and then answer the</p> <p>13 questions of the attorneys.</p> <p>14 (Witness reviewing document.)</p> <p>15 A. Okay.</p> <p>16 Q. First of all, can you tell me what</p> <p>17 application is being discussed in that document?</p> <p>18 A. I believe this is about the</p> <p>19 application from the co-op. I don't know,</p> <p>20 honestly.</p> <p>21 Q. Okay. In December of 2019 did you</p> <p>22 know who was the president of the co-op --</p> <p>23 A. At the time I likely knew. Right</p> <p>24 now I do not.</p> <p>25 Q. I'm sorry. Can you repeat that</p>	<p>244</p> <p>1 pre-COVID or post-COVID, pre this meeting or</p> <p>2 after this meeting. I don't know. I think it</p> <p>3 was all before.</p> <p>4 Q. You don't recall whether or not</p> <p>5 that was before or after the events that gave</p> <p>6 rise to this lawsuit?</p> <p>7 A. I think it was before. I don't</p> <p>8 think I've had any interaction with any board</p> <p>9 members since this meeting.</p> <p>10 Q. Okay. And if I asked you about</p> <p>11 the communications with Mr. Paturet in January</p> <p>12 of 2019, would your answer be the same?</p> <p>13 A. Yes.</p> <p>14 MR. CASE: I think I have no</p> <p>15 further questions for you.</p> <p>16 MR. MARGOLIS: I think we're done.</p> <p>17 MR. HARRIS: No questions? All</p> <p>18 right, thanks a lot, everyone.</p> <p>19 THE VIDEOGRAPHER: This marks the</p> <p>20 end of the deposition of Nigel Shamash. We're</p> <p>21 going off the video record at 17:02.</p> <p>22 (Deposition concluded 5:02 p.m.)</p> <p>23 -o0o-</p> <p>24</p> <p>25</p>

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1 REPORTER'S CERTIFICATION

2
3 I, NANCY C. BENDISH, Certified
4 Court Reporter and Notary Public of the States
5 of New York and New Jersey, do hereby certify
6 that, prior to the commencement of the
7 aforementioned examination, NIGEL SHAMASH was
8 sworn by me to testify the truth, the whole
9 truth and nothing but the truth.

10 I DO FURTHER CERTIFY that the
11 foregoing is a true and accurate transcript of
12 the testimony as taken stenographically by me at
13 the time, place, and on the date hereinbefore
14 set forth.

15 I DO FURTHER CERTIFY that I am
16 neither a relative nor employee nor attorney nor
17 counsel of any party in this action and that I
18 am neither a relative nor employee of such
19 attorney or counsel, and that I am not
20 financially interested in the event nor outcome
21 of this action.

22 

23 NANCY C. BENDISH, CCR, RMR, CRR

Realtime Systems Administrator

24 Certificate No. XI00836

25 Dated: December 21, 2022

A			
aa 5:4, 133:18, 133:21, 138:25 ability 81:8 able 11:24, 37:17, 38:4, 38:7, 38:9, 124:7, 124:20, 148:19, 152:2, 163:19 about 4:19, 4:22, 9:17, 10:6, 15:5, 17:18, 20:24, 24:24, 25:18, 25:23, 26:4, 30:11, 32:13, 40:6, 43:6, 43:7, 43:10, 45:7, 45:8, 45:15, 52:11, 57:19, 60:4, 61:21, 63:11, 69:3, 70:4, 72:11, 76:1, 80:23, 83:10, 88:19, 88:20, 92:2, 102:20, 104:20, 113:14, 118:4, 118:13, 120:1, 120:12, 120:23, 120:25, 121:13, 122:11, 124:1, 133:1, 142:15, 143:1, 148:7, 149:9, 154:15, 155:4, 156:6, 162:22, 166:11, 173:22, 177:14, 181:3, 184:1, 187:5, 187:7, 190:12, 191:10, 192:20, 197:1, 199:8, 199:12,	204:18, 205:4, 213:8, 213:24, 216:6, 216:13, 216:17, 216:23, 219:22, 227:9, 233:11, 237:5, 241:14, 241:16, 242:5, 242:18, 243:14, 243:20, 244:10 above 176:5, 186:6, 209:25 abrams 2:20, 6:24 absolutely 86:7, 91:23, 91:24, 111:19, 218:21 abuse 109:13, 109:19, 110:2, 127:2, 127:23, 127:25, 128:7, 128:18, 128:24, 129:6, 129:11, 130:16, 137:19, 138:2, 138:11, 160:11, 163:9, 167:13, 167:21, 168:2, 169:6, 174:10, 177:5, 214:13, 214:25, 218:14, 225:18, 229:14, 229:17, 229:23, 230:4, 230:11, 231:15, 231:22, 232:12, 232:16, 233:24 accept 136:24 acceptable 137:18 access 44:24, 109:16 accompanied 204:19 according 153:14, 155:3,	183:18 accordingly 81:11, 81:12, 90:20, 141:8 account 43:23 accurate 46:25, 47:3, 97:7, 108:9, 112:17, 222:25, 245:11 act 86:21 action 1:7, 7:17, 13:9, 14:13, 20:3, 20:15, 20:16, 20:24, 20:25, 21:3, 21:4, 21:8, 21:9, 21:22, 21:23, 23:16, 23:17, 24:3, 24:4, 24:9, 24:12, 25:12, 31:23, 41:17, 62:15, 125:22, 155:18, 156:22, 157:7, 157:21, 157:25, 187:25, 245:17, 245:21 actions 211:12 actively 53:10 activision 50:16, 50:17 activities 136:1, 177:4 actually 26:8, 30:19, 39:12, 46:5, 48:9, 49:19, 53:10, 64:3, 107:21, 110:21, 112:21, 116:6, 128:4, 130:5, 130:20, 134:11,	148:20, 159:14, 169:22, 209:13, 227:3, 227:24, 228:11, 229:9 add 123:21 added 76:8, 123:17, 123:24, 124:11 addition 130:15 additional 42:2, 108:22, 229:6 address 33:16, 34:5, 230:17, 239:8 addressed 100:16, 100:17, 132:16, 144:15, 144:16, 147:5, 152:18, 193:14, 202:5, 236:12, 236:13 addresses 35:14, 230:16 administrative 70:18, 70:22, 70:24, 135:21, 169:10, 176:25, 210:4, 211:25, 212:2, 212:5, 229:18, 239:25 administrator 245:25 advertise 52:4 advice 186:12, 192:8, 192:11, 192:17, 193:23, 196:18, 196:20 advise 100:22, 192:1 affect 10:19, 148:8 affiliated 35:13

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